

THE
WEST ROXBURY PARK.
1873 - 1887.



NEW ENGLAND
HISTORIC, GENEALOGICAL SOCIETY.

FROM *L. P. D.*

Octob. 14 1887

SOLICITE



Proth. 13-6

Is it not lawful for me to do what I will with mine own?—MATT. XX : 15.

HISTORY
OF THE
West Roxbury Park:

HOW OBTAINED.

Disregard of Private Rights.

ABSOLUTE INJUSTICE.

Arbitrary Laws. Right of Eminent Domain.

1873 TO 1887.

E. D. Dwyer

Let us consider the reason of the case, for nothing is law that is not reason.—SIR JOHN POWELL.

GLOUCESTER:
CAPE ANN BREEZE STEAM BOOK AND JOB PRINT.
1887.

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DEDICATION.

The following pages, briefly outlining the history of the West Roxbury (now Franklin) Park, are respectfully inscribed to the enterprising, public spirited citizens of Boston, who, the writer is assured, will be glad to know something of the *modus operandi* by which the lands were secured for the great public Park.

S. E. Sawyer.

WEST ROXBURY PARK.

Sometime during the spring of 1873 the question of establishing a system of Public Parks for the city of Boston was first suggested and brought before the citizens, who heartily and earnestly approved the project.

It was felt that a large enterprising city like Boston, the metropolis of New England, possessing ample wealth and enjoying such a wide-spread reputation at home and abroad for refinement and culture, should not fall behind other noted cities of the world in providing for its citizens broad fields and acres for a public domain, where our own citizens and strangers alike could meet together with freedom, on common ground, to breathe the pure air of heaven; to bask in the health-giving sunshine of the country; to enjoy its sylvan shade, its rustic scenery, and the pleasure of friendly meetings and friendly greetings.

The city government, after a long delay interspersed with hostile conflicts and hard fought battles, finally concluded to follow the example of other thrifty cities, and commence a series of public parks, to be established in different parts of the city, in order to accommodate, and at the same time to satisfy the tax payers and tax grumblers in the various sections.

Thus was inaugurated an enterprise worthy the high standard Boston occupies as one of the leading commercial cities in this country.

With strong assurances that the citizens of Boston will be interested to know something of the process,—the *modus operandi*, the scheme by which the great West Roxbury Park lands were obtained for luxurious purposes, the indulgence of her own citizens and the surrounding and rapidly increasing population,—the writer felt that it became his especial duty, being one of the foremost movers in the enterprise, as well as owning the largest and most valuable interest within the park area, consequently being the largest sufferer by the several seizures, to expose the cupidity of the city government in coveting and dooming these lands, and then reducing the valuations to meet the small appropriation made to pay for them.

There were no doubt many obstacles to be overcome before obtaining the appropriation, because of the opposing action of some members who did not favor the park scheme from the first, but finally voted for it grudgingly.

These members did not choose to consider that every great public improvement, whether for practical utility or for luxurious purposes, gave instant employment to a large number of the laboring classes, thus creating a ready demand, and at the same time lessening the supply, or surplus, of labor-seeking men.

They should have borne in mind also, that the money spent in either case comes out of the pockets of the capitalists, or the enterprising middle classes mainly, and not from those who are struggling for their daily bread by the work of their hands. These are facts that should not have been ignored in making a miserly appropriation at first.

Prompted by his conviction, and by assurances of good will and support, the writer at once diligently began to examine the unoccupied fields and wooded hills in the neighborhood of Boston, especially those tracts of massed lands within an easy distance and conveniently accessible to the citizens by steam, horse-cars or by carriage.

Such a region, admirably adapted for the purpose was found and approved; first, by its proximity to the city; next, for its nearness to the horse-cars, or to the more rapid transit by steam power, both of which conveyances were located on either side of this great area, and both running at short intervals during the day and night, to and from the city, the fare being only five cents each way.

These frequent and cheap conveyances were strong inducements to encourage the selection of this territory for park purposes, but furthermore the attractiveness was increased by the charming locality; its undulating surface, composed of upland and meadow, hills, terraces and valleys, woody slopes, copses and fields, all embraced within an area of 366.80 acres, and lying between three and one-half and four and one-half miles from the City Hall.

This beautiful tract of land, bounded northerly by Seaver street, easterly by Blue Hill avenue and Canterbury street, southerly by Morton street, westerly by Scarborough street and Walnut avenue, with two cross streets running through it, east and west, was embraced in twenty-seven different lots, held by about as many different owners.

To see personally or to communicate with these sev-

eral parties and obtain plans of their estates was the arduous work of a whole winter, and to have these plans (many of them in a ragged condition, and nearly all drawn on different scales,) so arranged as to form one large, perfect plan or map of the whole area complete, was finally accomplished by the skill and careful arrangement of William A. Garbett, civil engineer, at the writer's expense. This plan was dated April 9, 1874.

These preparations having been successfully accomplished, the writer next called together several of our prominent citizens, to whom was presented the project of establishing a park. These gentlemen were the Hon. Marshall P. Wilder, Hon. Alexander H. Rice, Colonel William V. Hutchings, and others who were known to be interested in every movement or suggestion looking to the advancement, prosperity and ultimate welfare of the city.

On the submission of the plan to them, together with a letter descriptive of the location of the property and its availability for park purposes, the project was highly and unanimously commended and approved, and the earnest hope expressed that the suggestions would be speedily adopted; and this anticipation finally became a reality.

The following is a copy of the original letter which was sent, with the plan made by Mr. Garbett, to the Park Commissioners as soon as they were appointed, which was in 1875, together with the names of the several owners of the lots according to the plan submitted. It will doubtless be of interest to the public:

Boston, Sept. 6, 1875.

MESSRS. T. JEFFERSON COOLIDGE,
WILLIAM GRAY, JR.,
CHARLES H. DALTON,
Park Commissioners.

Gentlemen:—In submitting my plan for one of the public parks now proposed for the city of Boston, I wish to call your attention to the fact that, although there are twenty-seven different lots of land embraced within the area, and nearly as many different owners, scarcely any of them know that such a project is on foot, my object being to avoid expectation or an incentive that might lead to speculation.

I own within this area only 476,360 feet of land, but I wish to present to your careful consideration a few facts showing the advantages in the selection of these lands, and the beauty of their location for *one* and possibly the largest of the several parks now contemplated. The outline of these premises, as will be seen by the plan, commences with a frontage on Seaver street, about 3.4 miles from the City Hall and running back to Morton street about 4.5 miles, bringing the whole of the park area within a short and convenient distance from the city. Taking the lines of Walnut avenue and Scarborough streets on the west, and Blue Hill avenue and Canterbury street on the east, you have in the whole area 15,946,636 feet or 366.80 acres, together making a well shaped area for a park.

The particular advantages and attractions of this locality will be seen and appreciated by your commission at a glance: the short distance from the city,

which is of primary importance; the comparatively low price of the lands, especially as they recede toward Morton street; the limited number of valuable buildings and other incumbrances upon the premises; the fine and altogether delightful means of approach to it either by Columbus avenue extended and Walnut avenue, or Warren street by carriage, thus avoiding the face of the sun in driving out in the afternoon during the hot weather, which, by the way, may be considered of much importance; the proximity to a large and rapidly increasing population in the Highlands; Jamaica Plain in the immediate vicinity, and the old District of Dorchester, and South Boston also, all being within convenient distances. Then the excellent facilities of getting to it by steam or by horse cars; the Hartford and Erie Railroad, and the Grove Hall horse cars on one side, and the Providence Railroad and Shawmut avenue (now Washington street) horse cars on the other, all being within a few minutes walk, either of which can be extended much nearer or even carried directly within the area, at a moderate expense, when required to accommodate increasing numbers of visitors.

These are good and ample reasons for the selection of this particular site for the chief of the park system, and they can not fail to impress your commission in favor of it. Then withal it will be difficult to find within the 3.4 or 4.5 miles circuit of the city, so large a tract of land and one so beautiful in its undulating surface; such charming natural scenery, it being partially wooded, with an ample supply of good water, and possessing so many striking recommendations.

The Austin Farm, containing about 50 acres border-

ing on Canterbury street, already belonging to the city, can also be annexed to the park.

I have nothing more to add except to earnestly request your commission to examine the premises carefully, and would suggest that you take a view from the two towers on Seaver street, giving a commanding view of the whole area. You can not fail to admire the beauty of the landscape and scenery, as well as to appreciate the great advantages of the location, and the facilities of access from the city and vicinity.

The city is spreading out in every direction, but nowhere with more certainty than toward West Roxbury and Dorechester.

Respectfully submitted,

SAMUEL E. SAWYER.

Names of the Land Owners.

No. 1.	Eliza R. Houghton,	1,217,763 feet .
2.	Samuel E. Sawyer,	476,360
3.	Horace B. Sargent,	1,750,000
4.	Cornelius M. Vinson,	261,360
5.	C. M. and T. M. Vinson,	547,828
6.	J. D. W. Williams,	707,170
7.	George Billings,	180,300
8.	Sarah Parker,	133,400
9.	J. D. W. Williams,	207,600
10.	Billings and Parker,	58,900
11.	Billings and Parker,	103,400
12.	Mrs. M. B. Sewall,	131,000
13.	T. C. Wales,	168,529
14.	J. B. Hildreth,	1,998,900

No. 15.	Jeremiah Williams,	186,300 feet.
16.	Dr. W. E. Woodward,	1,136,090
17.	Heirs of Thos. C. Cook,	1,591,210
18.	T. C. Wales,	155,375
19.	Charles Newhall,	753,349
20.	J. P. Cook,	606,315
21.	John Fottler,	917,685
22.	Heirs of Joseph Morton,	431,023
23.	Andrew J. Peters,	119,315
24.	Andrew J. Peters,	437,025
25.	John Galvin,	718,030
26.	John Galvin,	548,725
27.	Dr. W. E. Woodward,	403,884
		<hr/>
		15,946,636

After preparing the plan and the above letter describing the property, the writer became still more deeply enlisted in the work:—a project looking to the interest, the comfort and the pleasure of every citizen of Boston, the poor as well as the rich, and especially with a feeling of natural pride that the old city of Boston would no longer stand behind other large cities of the world in having a common breathing ground for its citizens, nor her glory be dimmed by longer neglecting to purchase the necessary domain for this purpose.

The citizens may now rejoice together, and with heart and voice commend the work so well advanced, (except the manner of doing it,) the well chosen site, the opportunities that proved so propitious for the selection and purchasing of some of the land required. We can now try to forget the conflicts and struggles of the past few years in the city government; the spirit

exercised and the limited appropriations made for the attainment of this grand municipal achievement.

But amid all the congratulations and rejoicings, the writer can not forget the great injustice done to these land owners, and the loud condemnations by those whose property has been ruthlessly sacrificed, being seized or condemned by the commissioners for this magnificent park scheme. The property thus taken was arbitrarily cut down from the former assessed valuation to about twenty or twenty-five per cent. of the real or prospective value; many of these owners had not the means to contend or to go to the courts for redress, therefore they were obliged to submit to arbitrary dictation, and take what they could get; the grinding price offered, sometimes being made, it is alleged, with the remark, "take it or leave it;" adding as a plausible excuse that "we take your property from you under the right of eminent domain," against the will of the owner, after the wholesale reduction in valuation by the assessors or commissioners, or both, until the point was reached whereby the limited appropriations would cover the sum required, these owners being sacrificed for the public good.

The reader of the above statements must not lose sight of an important fact in connection with these arbitrary acts, that during all these years from 1874, when the public park movement earnestly began, the park commissioners being appointed the following year, when the plans and the general development of the park features were more clearly defined, these lands were doomed or condemned, and not one strip within the area could be advantageously improved by the

owners nor offered for sale, thus taking their property in fact out of the market. I say that during all these years, running through that dreary period of mercantile depression, the land owners were obliged to pay their taxes on this property annually, even while it was under the clutches of the city of Boston; not only did they pay these unrighteous taxes, but many of them whose estates were encumbered by mortgages were obliged also to pay interest on the same. In this way thousands of dollars were paid into the city treasury and to money lenders, while their property was virtually doomed and tied up from their control, thus robbing the pockets of the land owners, and saving to the city time, price, interest and taxes. Who would believe that the city of Boston, acme of refinement and culture, could be governed by such a spirit in acquiring a public park for the indulgence of its citizens?

One of these owners, a well known merchant of Boston, who paid his taxes there for more than forty years, now well advanced in years, possessed a section of these park lands, expected some time to realize a handsome surplus over the mortgage incumbrance, sufficient to place himself and family in comfortable circumstances during his declining years. He looked hopefully upon the constant and rapid growth of the city and its surroundings in population and wealth, as surely promising to reward him for his long and patient waiting. But his property was cruelly taken from him just as the wave of prosperity and demand began to move toward his estate; for the location of it was such that it would first feel the benefit of the advancing population.

This old gentleman told me after a suit at law, which

cost him a great deal of hard labor, money and perplexity, that after paying his mortgage note of fifty thousand dollars he had given upon it, and the cost of road improvements, interest, taxes and other expenses, there would not be a dollar left for him.

This same property, containing 1,217,763 feet, was sold in February, 1872 for 18 3-4 cents per foot, or \$228,330.57, and it certainly ought to be worth as much now as it was so many years ago, allowing even for the speculative movements supposed to exist at that time. The valuation by the assessors, however, was cut down and cut down until it reached the shameful sum of \$42,600, when as if their conscience smote them, it was feebly raised to \$48,400, and then seized by the park commissioners; a mortgage of \$50,000 and other liens then existing to the extent of many thousands additional. In 1872 the writer offered him a large sum for this property, or ten cents per foot for a part of it, which he prudently refused to accept.

After long and tedious efforts he found it impossible to make a satisfactory settlement with the park commissioners, and was reluctantly compelled finally to take his cause into the Superior Court, this being his only redress. There he reasonably expected to obtain a verdict of about 18 3-4 cents a foot, or at any rate a price approximating thereto, as the evidence of some of our best merchants in the city and competent real estate experts warranted such a conclusion.

He was therefore dragged through the labors, anxieties and perplexities incident to a court at law, in December, 1884, and he obtained a verdict of \$103,232.11, about half the real value of the property, but more

than twice the amount offered by the park commissioners, when he was notified by the city solicitor that he could keep him out of the money one year at least, threatening to apply for a stay in arrest of judgment, and file a bill of exceptions, intending thereby to try the case over again, thus forcing the old gentleman to the risk of another trial. This was too much for him, considering the feeble condition of his health and that he was indebted to others nearly the whole amount that was due to him, which he desired to cancel. He was finally persuaded to make some concession. At this stage in the proceedings he began to negotiate with the city solicitor and others of the city government, and after much trouble he was compelled to give up the accumulated interest of one year and many thousands of dollars before a settlement could be effected.

This is a fair specimen of the treatment to others who had claims against the city for park lands; and does not the relation of these facts make the ears of all fair-minded men tingle, creating a spirit of just indignation? The writer's experience in the treatment of his own property will be given more in detail, as follows:

His valuable estate in question lying on Walnut avenue, (see park plan of lot No. 17,) contains 476,360 feet, also another large and charming property on Walnut avenue, Glenroad, and Ravenswood Park Circle; the road-ways included 1,492,510 feet, both together containing 1,968,870 feet, in which the writer has been directly interested, or held solely in his own right for more than thirty years, but not for speculative purposes; and having cut up Monteglade into twenty-two house-lots, awaited the time when the demand for

elegant country dwellings in this lovely neighborhood would bring them naturally upon the market, but not by forcing in anticipation.

During the year 1853 a contract was made to construct Glenroad, 1,345 feet long from Walnut avenue to the western boundary of the estate, to be made 40 feet wide, 6 feet sidewalks on each side, with a good stone culvert running through the middle of the same, and the road-bed substantially filled with two or three feet of stone, handsomely crowned with fresh gravel the whole length, as well as the circular park road. These were expensive avenues, both on account of the land required for their construction, which was very valuable, and the cost of building them. When finished, 190 thrifty elms were set out on the borders of these beautiful avenues, which have required much care and expense; meaning thus to improve the beauty of these lands by the embellishment of nature.

During the year 1854 a continuation of Glenroad, between the western boundary of this estate and Forest Hill street, a distance of 753 feet by 40 feet roadway, including 6 feet sidewalks, was constructed in like manner with the former avenues, taking 30,120 feet of land, which was bought at that time of George William Bond and paid for, which now stands at over forty cents a foot, receiving from him a deed of the same. An agreement was then made with Mr. Bond that he, or whoever else might build on this continuation of Glenroad, should have a perpetual right to pass over this part of the road extending as far up as the division line, but no further, intending thereby to retain the control of Glenroad as a private avenue.

In furtherance of this plan and in order to preserve the exclusive legal right, control and possession of this road for private uses, on Tuesday, the 13th day of May, 1873, J. P. Shaw, a carpenter, was employed and ordered to erect two substantial wooden fences across Glenroad, one on the Walnut avenue entrance and the other on the western boundary line, as before described, and to have them both so guarded as to prevent effectually all passing over said roadway from Tuesday at 1.30 o'clock P. M. until Friday at 9 o'clock A. M., which order was faithfully executed, according to the certificate hereto annexed, signed by the guards.

To wit: Alonzo W. Sherburne and Henry Wait alternately stood guard on Walnut avenue sixty-five hours, and James Leary and William Watson alternately stood guard on the western division line sixty-seven and one-half hours, as appears by the certificate.

MAY 16, 1873.

I the subscriber on oath depose and say, that at the request of Samuel E. Sawyer and James Haughton, owners of the Sumner Farm, so called, in West Roxbury, I built two fences across the private way owned by them, called Glenroad, which leads over said farm from Walnut street in a westerly direction towards Forest Hill street. Both of these fences were completely finished as early as half past one o'clock on the afternoon of May 13th, and they remained standing until the Friday following at nine o'clock A. M., when they were taken down and piled up by my order. One of these fences was built across the road near Walnut street, and the other near the end of the road toward Forest Hill

street. They were substantial in character, and intended to prevent all passage from May 13th at 1.30 o'clock P. M., until May 16th at 9 o'clock A. M.

In order to protect the fences from injury and more effectually to prevent all passage, a guard was placed at each fence. At the fence next Forest Hill street James Leary was stationed on May 13th, Tuesday, and stood guard from 1.30 o'clock P. M. till 6.30 o'clock P. M., when he was relieved by William Watson, who stood on guard from that time till 5.30 A. M. Wednesday, the 14th of May, when Leary relieved him and stood on guard till 6.30 P. M., when Watson again relieved him and stood on guard till 7.30 o'clock A. M., May 15th, Thursday, when Leary again relieved him and stood on guard till 6.30 o'clock P. M., when Watson relieved him for the last time and stood on guard till 9 o'clock A. M., May 16, Friday, when the fence was taken down.

In a similar way the fence next Walnut street was continuously guarded from the time of its erection, May 13th at 1.30 o'clock P. M., until it was taken down and piled up, May 16th at 9 o'clock A. M., by Alonzo W. Sherburne and Henry Wait, except only for the space of one hour, viz., between the hours of four and five o'clock on Wednesday A. M., during which hour the fence was unguarded but remained standing.

In witness whereof I have set my hand.

Signed, JOSEPH P. SHAW.

Witness, Alden Bartlett.

Commonwealth of Massachusetts.

Suffolk, ss.

Boston, January 21, 1874.

Then personally appeared the above named J. P. Shaw, and solemnly swore that the above statement by him subscribed, so far as it states facts within his own knowledge was true, and so far as it states all other facts was true according to his best knowledge and belief.

Before me,

ALDEN BARTLETT,

Justice of the Peace.

May 16, 1873.

Each of the undersigned being a person mentioned as a guard in the foregoing statement, do on oath depose and say, that each and all of the facts therein set forth in relation to his acts and doings are true, and that during the times he was on guard at the fence, as described in the foregoing statement, there was no passage of any vehicles or persons over Glenroad.

In witness whereof we have hereto set our hands.

Witness,

Signed, JAMES LEARY,

Alden Bartlett, (to J. L. and
W. W.)

WILLIAM WATSON,

J. B. Finn, (to A. W. S.)

A. W. SHERBURNE.

Commonwealth of Massachusetts.

Suffolk, ss.

Boston, January 21, 1874.

Then personally appeared the above named James Leary, William Watson and A. W. Sherburne and severally solemnly swore that the above statements by them subscribed were true.

Before me,

ALDEN BARTLETT,

Justice of the Peace.

Boston, January 26, 1874, at 12.05 P. M.

Received and entered with Suffolk Deeds, Lib. 1195,
Fol. 158.

Attest:

F. TEMPLE,
Register.

This charming property through which the Glenroad runs contains 1,492,510 feet of land, embracing the most diversified and picturesque scenery to be found anywhere in the vicinity of Boston; on one side a large tract of thrifty forest trees with natural walks diverging from the main avenues, and leading to the southern and western terraces; one overlooking the village of Jamaica Plain in the foreground, with its towers, steeples and dwellings, and distant views of the city of Boston and the neighboring towns; and from the southern terrace a fine view of the far outstretching landscape and valley, dotted with cottages and church spires, to the enchanting hills of Milton, slumbering in their dreamy blue atmosphere. The frontage of these several avenues, including Ravenswood Park circle, measures nearly six thousand feet; to be exact, just 5,814 1-2 feet. Since Glenroad was made, a number of dwelling houses have been erected, and quite a handsome village has sprung up on that and the new cross streets, particularly on Sigourney and Robeson, where land has been sold at from 25 to 35 cents a foot, and higher prices are demanded for house lots in that vicinity.

Ravenswood Park circular road was built also in 1853. It is 893 feet long, at the entrance 38 feet, and, in the circle 32 feet wide, with five feet sidewalks, and like Glenroad, it was substantially constructed and

crowned with gravel. This lovely estate called Montglade was well laid out by Alexander Wadsworth into twenty-two house lots numbered from 2 to 23, the contents of each running from 20,460 to 219,580 feet, and a plan made of the same. The lots were intended mainly for building large and elegant dwellings; the charming locations on Glenroad and some on Walnut avenue are worth at least 50 cents a foot; they are all within six or eight minutes' walk from the steam cars at the Green street station, on the Providence Railroad, whose trains run about fifty times during the day and evening, the fare being only 5 cents. The horse cars on Washington street, about half the distance, run every fifteen or twenty minutes, the fare being the same, so that the accommodations are ample.

To give an idea of the value of land in the neighborhood, the writer will enumerate certain sales that have been made, either by public auction (which is an uncertain criterion of actual value, as these sales are often forced,) or private sale; of the latter, several sales have been made of lots adjoining on Glenroad, Sigourney and Robeson streets, at 25 to 35 cents a foot, and higher prices are now asked; on Forest Hill street, 25 to 27 1-2 cents; on Walnut avenue 25 cents was refused; the city paid for a school house lot on Eggleston square 38 1-2 cents; on Rockland street a number of lots were sold at 22 to 40 cents; on Bird and Magnolia streets 25 to 28 1-2 cents; on Amory and School streets 50 cents. The Williams estate on Walnut avenue, Humboldt street and neighborhood, was sold at auction at from 18 to 41 cents, also on Sigourney and Robeson streets, at 15 to 30 cents — forced sales at auction, and

out of season — and besides these sales, the city bought on Walnut and Sigourney streets a large lot at 28 cents a foot, adjoining my property; on Blue Hill avenue at 21 cents, and on Ruthven, Crawford, Harold, Humboldt, Seaver and Walnut streets, a great many sales have been made at auction, the prices ranging from 17 1-2 to 40 cents or more. Even higher prices than these are demanded for lots on Elm Hill and vicinity.

The rise and appreciation of real estate near by, when favorably situated, may be shown by the prices often paid over the assessors' valuations: the city paid for one lot \$30,000, which was assessed at \$4,700; for another lot for the Marine Park at South Boston, taxed on \$7,400, the owner obtained \$20,635; and for still another lot taxed on \$14,800 the city was obliged to pay \$55,125.11. These real estate transactions are sufficient to convince any conscientious, fair-minded men that there is a positive value in real property.

The low boggy lands beyond Monteglade and Newstead, running down to Forest Hill street southwesterly, and along on Morton and Canterbury streets, would bear no comparison with the charming uplands embracing Monteglade and Newstead, no more than a coarse piece of bagging would compare in value with a fine piece of silk or satin.

The following letter was written to the chairman of the Park Commissioners on learning that they thought of condemning Monteglade:

Boston, November 4, 1875.

T. JEFFERSON COOLIDGE, ESQ.:

Dear Sir:—I have seen by Mr. Keith's plan which

you now have under consideration, that you are entertaining the idea of taking possession of the western side of Walnut avenue, embracing the whole of Montglade, including Ravenswood Park, containing 1,492,510 square feet of land. The writer in his great anxiety hereby gives you this early notice that he will strenuously object and herein remonstrates against the seizure of this valuable property, intending to hold it at present to be sold in lots for elegant dwellings; and moreover, the price I should demand for it would be a great deal more than the city can afford to pay for park purposes; and besides it contains inexhaustible ledges of great value, which are so well adapted for the construction of culverts, cellar-walls, foundations, the filling of road-beds and the natural faces are very valuable for the construction of public or private buildings. The proximity to the Providence Railroad would render the teaming a moderate expense, and after disposing of the stone the land would bring as much as before.

Respectfully yours,

SAMUEL E. SAWYER.

Chairman Park Commission.

Circular—Stone or Ledges for Sale.

The undersigned would call the attention of contractors and builders to the inexhaustible ledges on Walnut avenue and Glenroad, near Green street station, about 3 1-2 miles from the city, where stone can be conveniently quarried for foundations, culverts, cellar-walls, highways, and the natural faces for buildings.

Address,

SAMUEL E. SAWYER, Boston.

Another Letter to the Park Commissioners.

MESSRS. T. JEFFERSON COOLIDGE,
WILLIAM GRAY, JR.,
CHARLES H. DALTON,
Park Commissioners.

Gentlemen:—In answer to your communication authorizing you to obtain bonds for such tracts of land as you have selected for the Public Parks for the city of Boston, I have only to say that while meeting with heavy losses by the great fire, together with large shrinkages in the value of other properties, I have still confidently felt that my real estate, now temporarily depressed, will, by its certain advance in value by-and-by, serve to restore in part these depreciations.

The wealthy city of Boston, with its already large and constantly increasing population and wealth, can not expect me to sacrifice my valuable estate for park purposes, nor shall I consent to be thus doomed, or in other words robbed of my property.

These lands of mine, embraced within the area of the lines on the park plan, are admitted by everybody who knows, to be more charmingly diversified than any others, and may well be considered the gems of all the park grounds; in fact they form a lovely park in miniature already within their own area, requiring but little or no expenditure for embellishment.

It cost me the diligent labor of a whole winter, besides the expense in preparing the original plan of the anticipated park, embracing 27 different lots, or 360.80 acres, not dreaming that more land than this would be required, on account of the greater value.

It seems that you have adopted identically the plan I submitted, which I feel is complimentary to my judgment and taste, but I can not consent to the bonding or the parting in any way at present with Montglade, as it is the chief gem for elegant private dwellings of all the estates around Boston.

The lot of land on the eastern side of Walnut avenue, called Newstead, being numbered 17 on the park plan, was sold to a party in February, 1872, at 18 3-4 cents per foot, while another stood ready to negotiate at about the same price. Now by adding interest and taxes to the present time (Sept. 20, 1876) it will stand to cost 28 cents a foot, or \$133,380.80.

The city of Boston can purchase this strip of land by paying a fair equitable compensation for practical public uses, or it may be seized under the arbitrary right of eminent domain for luxurious purposes as well, but conscientious citizens would scarcely enjoy roaming or driving over these lovely grounds, knowing that they had been wrung from the owner at one-fifth of their value.

This lot, containing 476,360 feet, I shall be willing to part with at a fair price, in order to facilitate the accomplishment of the park project, but you can not reasonably expect me to sell this property at bankrupt prices. No, I prefer to hold these estates until another wave of prosperity reaches us; and moreover, I consider it a sacred privilege to do with my lands as a merchant would wisely do with his merchandize when the market is depressed; viz., to wait, and store his cargo till the prices improve.

My charming estate on the western side of Walnut

avenue, called Montglade, containing 1,492,510 square feet, is not only lovely in its natural scenery and picturesque beauty, but it contains a fine forest and inexhaustible ledges that will some time prove to be a treasure. If the city of Boston want these choice lands for a public park, it ought to be willing to pay handsomely for them, or else let them alone. Precious gems must command corresponding prices. I ask no favors. The population is now spreading out in a southerly direction, and these attractive sites with all their facilities of access will soon draw to them the growing population. These, gentlemen, are my reasons for not bonding this elegant estate to the city.

Respectfully yours,

SAMUEL E. SAWYER.

Philadelphia, Sept. 20, 1876.

On the 25th day of November, 1879, the writer, at the earnest solicitation of an agent authorized by the city government, consented, very much against his wishes, to give a bond to expire on the next first day of January, that he would sell the following described lot of land called Newstead, on the eastern side of Walnut avenue, for the sum of eighty thousand dollars. To wit: Beginning on Walnut avenue at land of Eliza R. Haughton, and running by her line to land formerly belonging to Horace Binney Sargent, thence by said Sargent's line to land of Jacob Fottler to Walnut avenue, thence by Walnut avenue to the point of beginning, containing 476,360 feet.

Signed, SAMUEL E. SAWYER.

Witness, Charles W. Cram.

This bond expired on the first day of January, 1880, without effect, and the writer was very glad of it, as it was bonded for \$9,317.50 less than the same property was sold for in February, 1872.

Park Department, }
Boston, December 21, 1881. }

SAMUEL E. SAWYER, ESQ.:

Dear Sir:—The following order has been passed by the City Council:

Ordered, That the City Treasurer be and is hereby authorized to borrow, under direction of the Committee on Finance, the sum of six hundred thousand dollars; the bonds or certificates of debt to be issued in negotiating this loan to be denominated on the face thereof "The Public Park Loan," and to bear such rate of interest as the Committee on Finance shall determine, and the Commissioners are hereby authorized to expend said sum for the taking in fee, by purchase or otherwise, for the purpose of a public park, lands to the amount of six hundred thousand dollars, in assessed valuation, within the limits of the proposed West Roxbury Park.

As land owned by you is within the limits where the park will probably be located, the Commissioners would be glad to see you at this office between 10 and 12 o'clock A. M., at as early a day as may suit your convenience.

Yours truly,

GEORGE F. CLARK,

Sec'y of the Board.

In answer to this summons I called and saw one of the Commissioners, who proposed to settle with me by adding 25 per cent. to the assessed valuation of that year, it being \$28,600, which with the 25 per cent. would have made the amount \$35,750. This I at once declined, saying that this small sum for Newstead was a great deal less than the property was worth, it having been sold in good faith eleven years before at \$89,317.50, but that I was still open to further negotiations.

I heard no more from them till they, or the assessors, or both, had cut the valuation down to the incredible sum of \$18,600, and then had the audacity to inform me that they had seized it.

We certainly need no further evidence to show to the citizens and the public that an unscrupulous spirit was exercised by somebody representing the city government in so undervaluing property, in order to make the insignificant appropriation of \$600,000 suffice to secure for the public park \$2,000,000 worth of property, and I doubt if such an instance of overbearing injustice and down-right oppression can be found in any other city in the world.

Who could believe that all these several pieces of real property, as shown by my first great plan, embracing 366.80 acres, could have been fairly and honestly cut down in valuation from \$1,136,900 in 1875 to \$532,200 in 1879! But such was the fact, and then, forsooth, it was condemned,—doomed for the great West Roxbury Park. Such an outrage ought to bring a blush to the cheek of every honest citizen of Boston.

The next communication received from the Park Commissioners was as follows:

Park Department, }
Boston, June 4, 1883. }

SAMUEL E. SAWYER, Esq.:

Sir:—By an act of this Board passed May 25th a public park was located and laid out in the city of Boston, by taking lands belonging to several persons and parties, whereby two certain parcels of land belonging to Samuel E. Sawyer, as appears by said act; and the Board having estimated all the damages sustained by the said Samuel E. Sawyer by the said taking to be \$18,600, I hereby notify you of the same.

Respectfully,

GEORGE F. CLARK,
Secretary.

In reply to the above significant insult, I sent the following letter forthwith to the commissioners:

Boston, June 8, 1883.

MESSRS. CHARLES H. DALTON,
WILLIAM GRAY, JR.,
HENRY LEE,

Park Commissioners.

Gentlemen:—I am officially advised by your Secretary, George F. Clark, that by a vote of your Board on the 25th ultimo, you have taken two parcels of my land within the West Roxbury Park area, and furthermore, that all damages are estimated by you at \$18,600.

Surprise and indignation are but feeble words to express the thoughts that stirred me on reading of this shameful act of injustice. On referring to my tax bills paid during the last ten years, I find the assessed valu-

ations of this property as follows, and taxed accordingly: Lot No. 17, 476,360 feet, 1874 on \$42,900; 1875 on \$37,100; 1876 on \$33,300; 1881 on \$28,600; and now the time having come, and the land being wanted for park purposes, it is seized under the cut down tax of 1883 for \$18,600, a reduction of \$24,300 since the park was projected, and \$10,000 reduction since 1881. This transaction is criticised by everybody as an extraordinary exercise of arbitrary power, to be condemned by all good citizens.

If you wish to negotiate amicably for this valuable estate, the assessed valuation must first be restored by at least \$12,000 or even \$15,000, before I shall consent to listen to any further proposition. My desire is to deal fairly and honorably with not only the Park Commissioners but with everybody else, and I shall expect and insist upon being treated in the same way by you, as the representatives of the city of Boston.

In reviewing the history and incidents of the public park scheme from its inception, ten years ago, you will find that I have the honor of being one if not the chief mover at that time, and I heartily worked in preparing the great plan, and in promoting the final consummation of the grand project, not dreaming that my property would be taken at 20 per cent. of its value. The first park plan was arranged and paid for by me; it cost much time and money. After your appointment as the commissioners, the plan, together with my letter relating to it, were both sent to you, and you have adopted the main lines and features as then suggested, embracing the whole area of 366.80 acres. Within this area I own only 476,360 feet, the handsomest swell of land to be

found east of Walnut avenue. In 1872 it was held at 22 1-2 cents, but finally sold at an offer of 18 3-4 cents a foot; the party, after some delay, not fulfilling his agreement, it was decided to hold it.

Now nothing is more certain than that all the available lands in the vicinity of a growing city like Boston will gradually advance in price and will so continue as the population increases. These lands were indeed wisely chosen for the public park, but it must be remembered that many of them are very valuable also for dwellings, and they are the first to come into the market as unimproved locations.

After waiting all these years through business depressions, all the time losing interest and paying taxes, then came the long looked for day of improvement in values; and while the patient owners are anticipating the benefits of better times, you seize their property at a moiety of its value with a firm grip, for the indulgence and enjoyment of the citizens.

If the city of Boston wishes to indulge in the luxury of a park or parks, why not do justice to the owners of these lands, and pay, without jewing, a fair equitable price for them, but not act with such a miserly spirit in making the appropriation? Six hundred thousand dollars can not be made to pay for property worth two millions of dollars without sacrificing the owners.

On looking over one of the Park Reports I was surprised to find the names of some of our worthy citizens attached to a petition, dated November 29, 1879, urging the Commissioners to secure park lands at once: "Because the lands required for the West Roxbury Park can be obtained at far less prices than hereafter, as real

property is beginning to feel the influence of the revival, which is showing itself in all business."

Now I would simply like to ask, who are best entitled to the benefits of this revival? the rich city of Boston, or the patient owners of this property? We all know what the honest reply would be.

I happen to know parties who thought themselves, at first, very fortunate in owning these lands now wanted by the city, hoping thereby, after so long waiting, to be able to realize a fair price for their property; but after many conflicts and sore disappointments, they were driven to despair by the beggarly spirit exhibited, and by the seizure of their property at undervaluations, and then offering a small compensation, leaving some parties largely in debt.

I know whereof I write, for I have offered in one instance ten cents a foot for the same land the commissioners have taken at less than four cents a foot, and the party refused to accept my offer.

Again, a bonafide offer of one hundred thousand dollars was made for a parcel of land, which was declined; afterwards the assessed valuation was cut down to \$42,600, and condemned by the commissioners for park purposes. Do you not think this sharp practice? I do hope the officials will soon realize the injustice of these acts of confiscation, or that the citizens may be informed, before they indulge in the luxurious enjoyment of parks, how they were obtained.

Another party was offered four hundred thousand dollars for his estates, which he refused to accept; this property was afterwards cut down to \$60,000, and finally the commissioners settled for it at about \$80,000,

because the parties therein interested were unwilling to go into Court.

Again, a charter was granted to the Highland Horse Railroad, when the question was often asked, "Why do they defer putting down the rails on Walnut avenue?" the reason being given that it was because the park lands would thus be enhanced in value, costing the city a few dollars more. The records show that four and even seven times the taxed valuation was paid for lands in South Boston for the marine park.

Respectfully yours,

SAMUEL E. SAWYER.

Not hearing from the Park Commissioners in reply to my letter of June 8, I wrote the following note:

Gloucester, July 5, 1883.

Gentlemen:—Before taking another step which must be necessarily an important one, I wish to hear from the commissioners, and I should be glad to know that Col. Lee has also read my last letter dated the 8th ultimo, and then to know your conclusions in regard to my claim for Newstead, Lot. 17, on the eastern side of Walnut avenue.

I shall be exceedingly sorry to enter my demand against the city in the court, costing me so much vexation, labor and expense. It must be borne in mind that this estate is altogether the handsomest parcel of land on the eastern side of Walnut avenue.

Respectfully yours,

SAMUEL E. SAWYER.

Park Commissioners.

Department of Parks, }
City of Boston, July 9, 1883. }

SAMUEL E. SAWYER, ESQ.:

Sir:—Your communication of June 8th was considered at a full meeting of the Board held this morning. While the Commissioners regret the necessity of an appeal to a jury, as you suggest, they think that with such difference of opinion as to the value of the land in question, it will probably be the most satisfactory method of settlement for both parties.

Yours respectfully,

CHARLES H. DALTON, Chairman.

Still dreading, and with a strong disinclination to seek redress by litigation, I again wrote on the 28th inst. the following note, which shows conclusively how much I regretted the necessity of being forced into court, and the strenuous efforts I made to keep out of it. To the Park Commissioners this was no bugbear, because they have the machinery of the Law Department, always in good working order, constantly at hand.

Brookbank, Gloucester, July 28, '83.

CHARLES H. DALTON, ESQ.,

Chairman Board of Park Commissioners:

Dear Sir:—I have now to own the receipt of your note of the 9th inst. in reply to mine of June 8th. Since receiving your note, I have made careful enquiries of competent men from abroad, and of friends at home, and gladly find but one opinion in regard to the exercise of the arbitrary power of the right of eminent domain, the

right of taking private property for public uses, and that in all cases where property is so condemned against the will of the owner, either by municipal corporations or by other parties, a fair, equitable compensation, if not a liberal one, is always allowed to the owners of such property, instead of the mean spirit shown in undervaluing my land to less than bankrupt prices, and then seizing it without the exercise of justice or mercy.

In setting your own prices upon my property you do me a great wrong, if you allow yourselves to be governed by the forced sales recently made by the poor victims who were obliged to submit to dictation because they dreaded an action in Court, and could not afford the expense of defending their just rights.

I am informed that the rights of private citizens are always respected in such cases, either abroad or at home, especially when they yield unwillingly their property for the public good, but I find no such recognition in my experience with the Park Commissioners, but that my sacred rights are trampled upon without mercy, and my wishes are entirely ignored.

We are supposed to be living in a christian community, where a just regard for individual rights is held sacred as the real safeguard of our liberties, and security of private property. Who could believe that such bare-faced injustice as has been perpetrated upon my rights could be done with impunity?

As a merchant of Boston, I have always been a law-abiding, tax-paying citizen, and can not recognize the right of any corporation to seize my private estates, or in other words, to confiscate them, for luxurious public uses. Am I not entitled to honorable treatment? Then

why should any official or officials of the City Government presume to ignore my rights?

We all know that unimproved lands are not intended to be taxed for more than half their real value, yet I have paid my taxes annually on my Newstead estate, lot No. 17, these ten years past, at valuations ranging from \$42,900 in 1874, to \$28,600 in 1881, which is suddenly reduced to 18,600, in order to make the small appropriation of \$600,000 cover your seizures.

These lands, embraced within the area according to my original plan, which you have condemned for the West Roxbury Park, were assessed in 1875 on \$1,136,900, which was supposed to be about half their real value, but summarily cut down in 1879 to much less than half the above amount. Thus, you see, that the short space in time of only four years, made alarming inroads upon all our real estate possessions. Did any of your Board suffer during the same time such marvellous shrinkages?

When the park question was first agitated, this property, Newstead, was assessed on \$42,900, and I considered it worth more than twice this sum; in fact it had been sold at \$89,317.50, and I expected this part of my real estate would be taken by the commissioners at or near the price it was once sold for, not for a moment suspecting that my property could be unscrupulously undervalued, and then seized at 1-5 the amount of my own valuation and sale, certainly a very poor recompense for my efforts originally exercised in the park scheme. I can not be reconciled to the belief that the citizens of Boston would willingly accept the use of these pleasure grounds, if they knew the methods by

which they were wrung from the long-waiting, patient owners.

You may say that others have accepted similar terms. It may be so; but you well know that they submitted to the arbitrary prices offered, because there was but one alternative, and many of them had no money to spare to pay court expenses and lawyers' fees. The city may therefore congratulate itself in its cupidity, that it has had such an open field of "lame ducks" to roam in at will. But my case is very different and you know it. I have owned these lands for thirty years, waiting patiently this long time for the city to stretch out its borders, and thus compensate me for holding them, always feeling that the time would surely come when they would be wanted for elegant country residences, fully intending that the proceeds of such sales should some time go for educational purposes,—our public schools, our library, and for numerous charities,—and is it right that the wealthy city of Boston should thus deprive me, in a measure, from accomplishing these christian services,—the great and leading objects of my life.

Eleven years ago the price of this charming lot of land was 22 1-2 cents, but finally sold at 18 3-4 cents a foot, or \$89,317.50, and were it not for the methods and depreciating influences of the public park scheme, it certainly would be worth as much to-day. At any rate I ought to have the right to set my own price upon my own property, and if it is not wanted at my price, I impose no obligation upon anybody to buy it; if the price is not satisfactory, it can be let alone; this is not unfair. Nor do I wish to press my property upon the

market out of season. This property was bonded once to the city, very reluctantly, for sixty days to Jan. 1, 1880, for \$80,000, deducting \$9,317.50 from a former sale, simply to help you carry out your plans. And I have shown every disposition, from the first inception of the park project, to favor its establishment, except to sacrifice my fortune.

These are my views and honest convictions, but I will try to reconcile our differences.

Respectfully yours,

SAMUEL E. SAWYER.

The following correspondence with the Park Commissioners will, perhaps, more clearly explain the situation of the owners of these lands in their relation to the undervaluation process, to which they so strongly objected.

In November, 1879, an agent employed by the city of Boston, after earnest appeals to the owners, succeeded in obtaining bonds from most of them within the park area, aggregating \$1,135,425. This was done after the valuations had been so unmercifully cut down to \$532,200. But the Park Commissioners concluded that they were smart enough to do a better thing for the city by ignoring the bonds, and after the time had run out they put the screws upon the bonded values, and many of the poor owners were forced to accept the extortionate prices of about one-fifth of the real value of their property, not having the means to contest the wrong.

These lands in question were all on the eastern side of Walnut avenue; one of the lots, called Newstead, containing 476,360 square feet, belonged to me, which

was taxed in 1874 on \$42,900, sold two years before for \$89,317.50, and reduced in value by the assessors to \$18,600, a remarkable history of one parcel of real estate, being an unaccountable depreciation!

The writer has already shown that the process of reduction in assessed values—the downward movement,—was gradual, until the final taking, when the “jump” was sudden and more effectual, there being a much larger slice cut off at one time, and the property was then doomed for the park scheme. Meantime the taxes were annually levied, and paid by the owners, until the valuations suited the appropriation of the city government. A large sum of money was thereby paid into the hands of the city treasurer, while the estates were beyond the control of the real owners and tax payers; and besides, many of them were also obliged to pay interest on their mortgages, thus saving to the city large sums of money both in prices and taxes, the writer alone having paid at least \$20,000 in taxes to the city since the park inception.

Moreover, in rendering my tax bill on Newstead for 1883, the full amount for the whole year was charged, and paid under protest, the estate having been seized on the 25th day of May. This, however, was in keeping with other transactions.

The writer has already alluded to a petition gotten up by twenty-nine of our most respected citizens, which is here copied verbatim, simply to show that the treasury of the city of Boston is paramount to the patient land owners and tax payers. It appears on the last page of the commissioners' report for the year 1879:

To wit:

Boston, November 29, 1879.

To the Park Commissioners:

"The undersigned, tax payers of the city of Boston, believe that the time has arrived for action in regard to the West Roxbury Park. It is believed that the lands required therefor can now be obtained at far less prices than hereafter, as real property is beginning to feel the influence of the revival, which is showing itself in all kinds of business. It is stated that about four hundred acres can be obtained for about nine hundred thousand dollars, and we think you should direct the attention of the city government to the subject and urge its immediate action thereon." And again: "If the lands are not taken or bought at once, it may be more difficult to buy them at prices they can be bought at now."

Who on earth is better entitled to the rise in value of this property than the owners who have patiently held it for many years, and through the long period of business depression; in fact they have been waiting for just this welcome revival. By what moral or equitable right does a rich municipality or other corporation undervalue the property of a private citizen 500 per cent., or from \$89,317.50 to the paltry sum of \$18,600, making its own price for it, regardless of the owner, and then seize it for luxurious purposes? The writer strenuously protests against this gross wrong, and in conclusion can only add, that if the city of Boston wants my estate, the following are my figures:

Boston, May 25, 1883.

MESSRS. CHARLES H. DALTON,
WILLIAM GRAY, JR.,
HENRY LEE,
Park Commissioners.

TO SAMUEL E. SAWYER, DR.

TO Parcel of land east of Walnut avenue,
within the West Roxbury Park area,
being Lot No. 17 on the commission-
ers' plan, containing 476,360 feet, at
18 3-4 cts., \$89,317.50

This is the most charming swell of land east of Walnut avenue, overlooking the Milton Hills, and other picturesque views, it being near the entrance to Glenroad, leading direct to the Providence Railroad, at the Green street station, or to the still nearer horse cars on Washington street. In February, 1872 it was sold at 18 3-4 cents a foot, and in November, 1879, it was reluctantly bonded to the city until January 1, 1880, for the sum of \$80,000, or 16 13-16 cents a foot.

The writer can not forbear to repeat that he can not recognize the power of any government or people to claim the right to enter upon, and take possession of private property without paying therefor, at any rate a full and ample compensation.

Can the city of Boston or the Park Commissioners be justified by the public in condemning my lands for park purposes, against my will and consent, at only 3 7-8 cents a foot, that were sold thirteen years ago at 18 3-4 cents a foot? The city is spreading out in that direction,

as is shown by the increase of population since 1878, of fully 24 per cent., against 6 per cent. gain in the city proper.

The following letters were written to the Chairman of the Board of Assessors, protesting against the injustice of reducing the valuation of my real estate, preparatory to its being taken for public uses:

Brookbank, Gloucester, Mass., Oct. 25, 1883.

THOMAS HILLS, ESQ.:

My Dear Sir:—In acknowledging the receipt of my tax bill, as assessed on my real estate for this present year in Ward 23, I am impelled to express herein my indignation that a certain section of my land on Walnut avenue, being lot 17, within the Park area, should have been cut down in valuation from \$42,900 in 1874, to \$18,600 in 1881, or \$24,400 reduction during the whole time, or \$10,000 less than in 1881. A most remarkable reduction in so short a time, near a growing city.

This action in itself was not so objectionable to a tax payer except that it was then immediately seized by the park commissioners, and virtually confiscated; this great wrong being committed for the luxurious enjoyment of the citizens of a rich old city. You well know that unimproved real estate, like mine, in the immediate vicinity of any large municipality is seldom or never intended to be assessed at more than half its true value.

I therefore solemnly ignore the moral or legal right of the park commissioners, acting in behalf of the city of Boston, to treat my private property in this summary way, regardless of my sacred rights, and I hereby enter my protest, declaring to you, as Chairman of the Board

of Assessors, that I will never accept payment for this land based upon 3 7-8 cents per foot, which was sold in 1872 at 18 3-4 cents, a reduction of about 500 per cent. Meantime the city has been constantly increasing in wealth and population.

This property was bonded to the city for \$80,000, at the urgent request of an agent, to Jan. 1, 1880. On the 16th day of July, 1873, I offered for the adjoining lot of land one hundred thousand dollars, or ten cents a foot for a portion of it, say about two acres, which the city reduced the valuation of to \$42,600, and afterwards seized it at \$48,400, being less than one-half the sum I offered for it, and both prices were refused by the owner. The city offered only 4 cents a foot. If I were a bankrupt, I might be obliged, as some other owners in the park area may be, to submit to this mean usage, without the power of resistance. Is the city willing to take the advantage of these poor owners, and call "might right," or will it adopt for its action the more noble and praiseworthy policy of paying for the lands, now wanted for luxury, a fair, equitable price?

I have written two letters to the park commissioners, explaining more fully my views in regard to this matter, which you can see if you so desire.

Having paid my taxes promptly these last forty years, I should be glad to do so now; but to pay on such an undervaluation would be construed as approving, or quietly submitting to this treatment; therefore I must withhold payment until I am fairly treated, and all my rights preserved.

Respectfully yours,

SAMUEL E. SAWYER.

On the 31st of October I received an answer to the above communication, and on the 9th of November I wrote the following reply:

My Dear Sir:—I have the pleasure to own the receipt of your favor of the 31st ult., which seems to call for an answer.

I am not ignorant of the fact that tax payers, as a rule, do not complain of low valuations, and consequently light taxes, but after the payment of my taxes the past ten years on this charming lot of land, from 1874 on \$42,900, and in 1881 on \$28,600, to 1883 on \$18,600, thus cutting down the valuation \$24,300, from the first date, and then to summarily seize the property, by the right of eminent domain, at these small figures, it seems to me, is to have the right to exercise the arbitrary power of robbing me to the extent of about four-fifths of the real value of my property for the public good. It is enough to make the holder of real property howl at such gross injustice.

Are we living in a christian community, breathing the atmosphere of civilization, or are we living in a land of bondage? Not even at 18 3-4 cents a foot do I wish the city to buy this estate; to me it is worth more, and will produce a profit over this price. Ten years ago this property was valued by competent experts at 15 2-3 cents a foot, four times the assessors' present undervaluation, but it was not for sale.

Why do you tax me at all on property already doomed for the uses of the city, after it is thus seized and beyond my control? Do you call it just? And moreover, my tax bill calls for the whole amount of taxes for the year

when the land was taken from me, by notice from the park commissioners, on the 25th day of May. So you see that injustice encourages and breeds like injustice! You well know that English laws protect individual rights, as sacred; and these laws are our natural inheritance. Shall we admit that the daughter has fallen from grace?

Respectfully yours,

SAMUEL E. SAWYER.

On the following day, November 10th, I received a short note in reply to my letter, which was answered at once. To wit:

I thank you for your suggestion and advice in regard to my rights being adjusted by a jury, but with my present experience, and the treatment I have already received by the city government, or the park commissioners, or both, I have lost faith that justice would be found in Court.

No; it is already a foregone conclusion that the city means to capture my property through its officials, so that your 360,000 citizens may indulge in the enjoyment of it for a bagatelle. It is, however, very certain that I shall never consent to a settlement for this valuable property on the basis of this unjust valuation. Do as they will, I shall still have reserved to me the satisfaction of placing before the public a true statement of the mean spirit exhibited in obtaining the luxury of a public park for the citizens of Boston.

Yours respectfully,

SAMUEL E. SAWYER.

The tax bill was paid under protest, as follows:

Protest.

Tremont House, {
Boston, Dec. 29, 1883. }

JAMES W. RICKER, ESQ., City Collector.

Sir:—The undersigned is the owner of a certain parcel of land in Ward 23, West Roxbury, being No. 17, on the park commissioners' plan, containing 476,360 feet. This lot was sold in 1872, nearly twelve years ago, at 18 3-4 cents a foot, or \$89,317.50, which was assessed in 1874 for \$42,900; in 1875 on \$37,100; in 1876 on \$33,300. Since 1876 the valuation has been varied, and in 1881 on \$28,600. On the 25th day of May last, the park commissioners took this lot of land, by right of eminent domain, together with another small lot, No. 20, on the same plan, and notified me that the damages were only \$18,600, for which I have rendered a bill to the park commissioners, aggregating \$93,983.88. It is unusual for tax payers to complain of low valuations, nor would the writer be an exception, were it not that immediately after reducing this property to a nominal value, the city of Boston authorized it to be seized for park purposes.

The undersigned therefore, in paying his taxes for the present year, hereby remonstrates and protests against this unjust treatment, as partially described above; and for the reasons set forth, and for others not named, he hereby pays the taxes assessed upon the lands so taken, only to save loss, damage and expense; waiving no right to recover said taxes, and full damages for the

property so taken, either in equity, or by due process of law.

Respectfully submitted,

SAMUEL E. SAWYER.

Witness, E. E. Patridge.

I hereby certify that the foregoing is a true copy of the protest made and presented to James W. Ricker, City Collector, this twenty-ninth day of December, 1883.

Signed, E. E. PATRIDGE.

The following letter was written on the receipt of a notice from the park commissioners, dated May 2, 1884, stating that they had also taken all of Montglade, on the western side of Walnut avenue, embracing the property on Glenroad and Ravenswood Park, with their charming forests, lovely lawns, and domes of stone, containing 1,492,510 square feet of land, which was like taking the apple of my eye.

Boston, May 15, 1884.

MESSRS. CHARLES H. DALTON,
WILLIAM GRAY, JR.,
HENRY LEE,

Park Commissioners:

Gentlemen: — Although I firmly protest and remonstrate against the exercise of such arbitrary power that deprives me, without my lief or consent, of a large, elegant, and very valuable property, yet when I consider its position in relation to other sections of the park domain, its only elevated hills, its charming terraces, its views of the valley of Jamaica Plain, and the city of Boston in the distance on the north, and on the south

the Blue Hills of Milton, slumbering in their dreamy atmosphere, spanning the long extent of valley intervening, dotted with cottages; also its glades and glens, its native forests, slopes and lawns, I can not but feel that the loss to me of this lovely estate is almost inevitable. I have therefore, but with the greatest reluctance, and against my pecuniary interest, made out the inclosed bill or claim, which, if accepted by your board, will cost me much regret, and many thousands of dollars in money.

Mr. Olmstead knows, you all very well know, that the natural beauties of this valuable estate, with its lovely valley, its glens, copses and fields, and with its Ravenswood Park, possesses rural charms unsurpassed, and variety enough to be a lovely park within its own borders, in fact a gem, the treasure of the whole park area, besides being the chief high gateway to the entrance of the great West Roxbury Park, and nature without adornment has done the needful.

Your commission has already secured three or four hundred acres for park purposes, which are all very well in counting acres, and cheap enough, but what would your great West Roxbury Park amount to, some of it being low and boggy land, without Monteglade? Where else within the city limits, can be found another estate to compare with it for the grand entrance to the park domain?

Gems and precious stones must bear corresponding values; therefore, if the citizens of Boston desire such treasures for their indulgence, they must be willing to pay for them, or let them alone; it is not my wish to sell this property now, even at the prices named for it

in the bill, as it is constantly increasing in value, although, perhaps, imperceptibly. Before long it will be wanted, being the first to come into the market; nor would I sell a lot on Glenroad to-day, one mill less than fifty cents per foot. You must be aware that the frontage of this property is very extensive, running a long distance on Walnut avenue, bordering both sides of Glenroad and Ravenswood Park circle.

Both of these roads were constructed with much care and at great expense. These twenty-two lots were handsomely laid out thirty years ago, in order to improve this charming estate, and to gain access to it by carriage; both avenues, however are private ways.

The frontage of this whole property is now 5,814 feet and 6 inches, bordered by thrifty elms, and besides the excellent qualities of this estate as already stated, it has upon its surface domes of stone and granite, that will become more and more valuable in future years, and after these are sold and taken away the land will still be left, not much diminished in value.

Is it a fair and honorable transaction for the city of Boston to take from me this valuable property without the assurance of a full and ample compensation? Why should I be deprived of my present or prospective fortune to secure the indulgence of a luxury to the citizens of Boston? I regard these valuable estates as being fully worth the amount of my claims as rendered.

Respectfully yours,

SAMUEL E. SAWYER.

Boston, April 29, 1884.

MESSRS. CHARLES H. DALTON,
WILLIAM GRAY, JR.,
HENRY LEE,

Park Commissioners.

TO SAMUEL E. SAWYER, DR.

To 10 lots of land, Nos. 2 to 11, West Rox-	
bury, according to Alexander Wads-	
worth's plan, July 2, 1853, containing	538,085 feet
Glenroad 1345 x 40,	53,800
	<u>591,885</u>
at 35 cts. per foot,	\$207,159.75
 To 12 lots of land, Nos. 12 to 23, same plan,	
containing	870,710 feet
Ravenswood Park circle,	29,915
	<u>900,625</u>
at 25 cts. per foot,	\$225,156.25
	<u>\$432,316.00</u>

To Construction of Glenroad and culverts;
Ravenswood Park road, circular ave-
nue; 6 feet sidewalks both sides of Glen-
road; 190 elm trees, 1856, setting out
and care of them; paid Geo. W. Bond
for roadway, connecting Glenroad with
Forest Hill street, 753 x 40 feet, 30,120
feet, 1854, 30 years, would stand to-day

\$12,800; blocking and fencing Glenroad May 13th to 16th, 1873; guarding same two nights and three days, on record; William J. Bowditch examining title, surveying, etc., \$12,500.00

To Ashler stone from dwelling house built by Geo. W. Bond, afterwards bought by Henry Cabot, Winthrop square, Boston, \$3,500.00

\$448,316.00

List of Montglade Lots, West of Walnut Avenue.

East of Glenroad.		West of Glenroad.	
Lot No. 2	79,204 feet	Lot No. 12	51,977 feet
3	20,460	13	68,183
4	50,210	14	49,530
5	45,672	15	62,690
6	79,744	16	81,100
7	61,220	17	40,900
8	29,760	18	70,650
9	60,500	19	26,080
10	31,940	20	80,500
11	79,375	21	94,400
Glenroad,	53,800	22	219,580
	<hr/>	Circle,	24,120
	591,885	Park Road,	29,915
			<hr/>
			900,625

East side Glenroad, 591,885 feet at 35 cts.,	\$207,159.75
West " 900,625 " 25 "	225,156.25
	<hr/>
1,492,510	\$432,316.00
Including roads, trees, stone, etc.	16,000.00
	<hr/>
	\$448,316.00

The following correspondence was suggested by my desire to make a satisfactory settlement with the park commissioners, by having a private interview, and an opportunity for negotiation and exchange of views, which, however, proved to be futile.

Tremont House, {
Boston, Jan. 20, 1885. }

MESSRS. CHARLES H. DALTON,

HENRY LEE,

Park Commissioners:

Gentlemen:—On the first day of February next I shall be under obligations for a large amount of money, and as the park commissioners owe me for the amount of my bill rendered for lot No. 17, within the park area, 476,360 feet at 18 3-4 cents, or \$89,317.50, I thought it advisable to request you to pay this claim, and I trust you will not disappoint me.

I already begin to realize that all my material interests in these valuable real estates, my present and prospective fortune, are now in your hands, subject to the arbitrary power or otherwise of the park commissioners. You can deprive me, as you have already done, by the exercise of the right of eminent domain, of my sacred rights in my own property, ignoring at will my wishes, and thus confiscate my lands; or you can leave them subject to my control as it may suit your dictation or

pleasure, as I have no voice in making a price between 20 per cent. and 100 per cent. of my holdings.

Now in the exercise of this arbitrary power accorded to your commission, ostensibly for the benefit of the public, it should be so modified and tempered with justice, that it shall not trample upon individual rights, but that equitable, not niggardly terms, shall be made to satisfy the owner for his sacrifice in parting with his lands. Instead of fair and honorable treatment, as above suggested, I feel that my property has been ruthlessly seized by your commission, after marking it down, down and down, from its previous valuation by the assessors, which was \$42,900. On this sum the writer has annually paid his taxes, even down to the absurd valuation of \$18,600, simply to accommodate the stingy appropriation of only \$600,000, made by the city government with which to buy this large area of park lands, worth \$2,000,000 at least.

If the city requires my charming property for luxurious purposes it must pay for it fairly, and not jew me. I ask no favor, but simply to let my lands alone, that I may continue to hold them in my own right.

It has often been said to me that Walnut avenue is destined to be the court end of Boston, both on account of its accessibility and its elevated position, for aristocratic dwellings. But whether this prediction is hereafter proved to be true or not, I do know that the lands in this section of the city are most picturesque and attractive, and they will soon be wanted for the erection of fine mansions.

Since my property was doomed, and so tied up that I could neither improve it nor offer it for sale, I have

paid into the city treasury more than \$20,000 for taxes. Why should I, strictly in justice, pay taxes on property beyond my control, when virtually held, except in fee, by the city of Boston? My last tax on Newstead, lot No. 17, was paid under protest for two reasons: one for undervaluation, and the other because the taxes were unjustly levied on it for the *whole* year, when your commission seized it on the 25th of May, of the same year.

The reduction by the assessors' valuation of city property since 1875, averages 14 per cent., to wit: In 1875 the valuations were \$793,000,000, and in 1883 the valuations were \$682,000,000: while my property has been reduced by undervaluations 58 per cent., and seized for the great park.

The English laws are so sensitive in guarding and protecting private rights that not even the sovereign could violate them with impunity; these laws are our own heritage; shall we ignore them?

The fact must be kept in mind, that the prices at which the park lands have been taken from many of the poor owners should be no criterion for settlement with other parties, because they had no means of redress, no money to spare for litigation; and knowing, as we all do, the uncertainties of the law, they submitted to the exaction, took what they could get, and then groaned over the compulsion forced upon them by their necessities. Who will thank you, now, or in the future, for exercising the arbitrary power of the right of eminent domain, to an extent that robs me, and other owners, of a few acres of land, for the benefit of the citizens of Boston.

Respectfully yours,

SAMUEL E. SAWYER.

Department of Parks, Board of Commissioners. }
City of Boston, January 24, 1885. }

SAMUEL E. SAWYER, ESQ.:

Sir:—In reply to your letter of the 20th inst., which was laid before the board at its meeting to-day, I am directed by the commissioners to say, that as they do not find that it contains any new proposition for a settlement of your claims against the city, no action thereon could be taken, and that before considering the matter further, they desire to have from you a proposition for a settlement of all your claims for land taken for the West Roxbury Park.

Yours respectfully,

GEO. F. CLARKE, Secretary.

On the 24th of January, I wrote in answer to the above, that as Lot No. 17 was the first condemned, you will greatly oblige me by paying for it at once. Any reasonable concession I can make to further this end, may be considered at an interview; or if you prefer it, you can make me a direct proposition for this estate in writing.

Tremont House, }
Boston, January 31, 1887. }

MESSRS. CHARLES H. DALTON,

HENRY LEE,

Park Commissioners.

Gentlemen:—Without the favor of a communication from you in reply to my brief note of the 24th inst., requesting you to pay for the lot No. 17 first, it being the first that was taken, and offering to make any reason-

able concession, I have had the charity to presume that it did not reach you promptly, as it would not have been quite an act of courtesy to delay answering the urgent appeal of one who has done so much to advocate and promote the public park enterprise.

I am not, however, so very much surprised at this lack of courtesy, having witnessed too many of life's conflicts to be easily moved by trifles. A long experience in business leads me to believe that I do know what belongs to courtesy, justice and fair dealing among merchants and high-minded men, in the various walks of life, and I must confess that during all these years I have never before witnessed such an imperious disregard of other people's rights; such a close proximity to absolute robbery, as the process of getting possession of these park lands, has disclosed. The poor owners have been squeezed without stint by cutting down valuations, and then jewed in prices in order to obtain a public park for the indulgence of a wealthy city. Apply this same kind of treatment to yourselves and then you will see how you would like it; probably you would rebel as I do.

I now hereby withdraw every proposition, or concession, written or verbal, heretofore made by me, with the view of settling for the lot No. 17, leaving the price as per bill or claim rendered, under the date of May 25th, 1883, at 18 3-4 cents per foot, or \$89,317.50.

Respectfully yours,

SAMUEL E. SAWYER.

Department of Parks, Board of Commissioners, }
City of Boston, January 31, 1885. }

SAMUEL E. SAWYER, Esq.:

Sir:—In reply to your letter of the 24th inst., I am directed to say that the board will insist upon its determination, not to consider the proposition for a settlement of your claim for damages upon the lot taken May 25th, 1883, except in connection with a proposition to settle at the same time your claims for damages under the subsequent taking.

Respectfully yours,

GEORGE F. CLARK, Secretary.

Tremont House, }
Boston, Jan. 31, 1885. }

GEO. F. CLARK, Secretary Park Commissioners:

Sir:—In acknowledging the receipt of your note crossed by mine of the same date on the way, the purport whereof being dictated by your Board, I have only to say in reply, that I have already rendered my claim to the park commissioners for the estates on the western side of Walnut avenue, called Monteglade, under the date of April 29, 1884, which I reluctantly made, hoping that this favorite section of my valuable property would be waived and let alone. But if the commissioners find it indispensable to the perfection, beauty and completion of the park outline, in establishing it, and if I am thus compelled to part with it, which is like the taking of the very "apple of my eye." then I have only to say that to save further controversy, litigation and delay, any reasonable concession I can make from

my claim for this valuable estate, lot 17, I shall try to make, in order to settle both of my claims at once.

I can meet the commissioners at any time within a few days to negotiate.

Respectfully yours,

SAMUEL E. SAWYER.

Department of Parks, Board of Commissioners. }
City of Boston, February 1, 1885. }

SAMUEL E. SAWYER, ESQ.:

Sir: — In reply to your second letter of the 31st ult., Mr. Dalton directs me to say that the commissioners would prefer to receive any modification you may desire to make of your former proposition in writing.

Respectfully,

GEO. F. CLARK, Secretary.

Tremont House, }
Boston, Feb. 2, 1885. }

GEO. F. CLARK, ESQ.:

Sir: — My object in suggesting a conference was with a view of arriving at some mutual agreement as a basis for settlement by concession, and then, if concession should not avail in accomplishing our object, any verbal proposition made could at once be withdrawn, leaving me free to act according to my judgment, without prejudice to the full amount of my claims. I still think it best, at any rate, to confer.

Respectfully,

SAMUEL E. SAWYER.

Thus ended the wearisome and perplexing efforts made, and the lengthy correspondence pursued for months, hoping thereby to come to a satisfactory settlement with the park commissioners for my valuable estates.

This charming property was summarily taken from me, or condemned, for luxurious purposes, against my will and protestations; leaving me no alternative for redress, but the still greater labors, together with the inevitable court expenses, and with the harrassing uncertainties of the law. I was therefore compelled to employ counsel, and enter my claim on the docket of the Superior Court, against the city of Boston.

The statements annexed contain valuable statistics, drawn from the records, relative to the complications and struggles in securing the lands for the great central park in New York city, which were carefully prepared and contributed to these pages.

A striking similarity of the methods followed in obtaining the lands required for a public park in New York and Boston is here graphically shown, together with some of the results already realized.

By the act of the New York Legislature passed July 21st, 1853, about 773 acres of land, lying between 59th and 106th streets, and between the 5th and 8th avenues in the city of New York, were at once condemned for public use as a park. This action of the authorities had its advocates as well as its adversaries; many people believed, while others affected to believe, that the scheme would never be carried out. Every effort was made, by litigation and otherwise, to defeat it. No money was voted by the city council until 1857, after

the final decision of the courts had left no doubt as to the legality and constitutionality of the act.

In 1852, the estimated value of the lands taken by the act was \$1,407,325; but the amount finally paid for them was \$5,406,193. By the evidence produced in court during the trials, it appeared that for some of the lands so taken the commissioners had awarded only 50 per cent. of what the owners had paid for them at public auction in December, 1852, only about six months previous to their being taken for the park. Taxes were assessed upon the lands until 1856.

The assessments for betterments on surrounding estates, made in 1860, amounted to \$1,661,395, which reduced the cost of the park lands to the public treasury really to \$3,744,798. Of these 773 acres, taken as a park, 135 acres already belonged to the city, and 57 either to the state or public institutions, leaving the net amount purchased 583.45 acres, the average price paid being \$9,266 per acre, or 21.27 cents a foot.

From 1853 to 1857 this matter was so obscured with doubt and uncertainty as to the result, that the value of three wards, in which the park was located, became greatly reduced; the depreciation in a single year, from 1855 to 1856, being nearly 10 per cent. Men who had partly paid for their lands abandoned them in despair of retrieving anything from the ruin which impended over them, and much private misery was occasioned thereby.

In 1859, when the valuation of these wards had risen 33 per cent. above the valuation in 1856, it was determined to add 75 acres, lying between 106th and 110th streets. The lands had been unjustly appraised for taxation at \$179,850, and when valued in 1860 by the

commissioners of the Supreme Court, they awarded \$1,499,429, of which, deducting the betterments assessed \$425,906, left the balance upon the city \$1,073,523.

This award, being unsatisfactory to the park commissioners, they voted to discontinue proceedings under the act, which, by decision of the court, left matters as if nothing had been accomplished and a new board of assessment was appointed, who reported in March, 1863, total amount, \$1,179,590, of which was assessed \$171,085, leaving a balance upon the city of \$1,008,565. The amount paid for these lands was \$15,725 per acre, or 36.25 cents a square foot. The centre of this area is about six miles from the city hall.

The proceedings for taking these lands were hardly consummated before the Central Park commissioners were showing by their reports that there was a rapid increase in the valuation of the estates surrounding the park, and that the tax on the increased valuation would meet the interest on the cost, and sink the principal in five years. The valuation of the three wards, 12, 19 and 22, which surround the park, was as follows:—in 1856, \$26,429,565; in 1858, \$31,002,071; in 1863, \$51,419,499; in 1868, 117,926,230; in 1873, 236,081,515.

Since 1873, the inauguration of the elevated railroads and other grand improvements have contributed largely to the increase of valuations, but up to 1873 the addition in values had been in a great degree caused by the superior attractions given to that entire part of New York by the embellishments of Central Park.

Up to this time the total cost of Central Park had been \$13,902,515, and the sum paid during the 14 years as annual payments of interest aggregated \$8,440,189,

while the aggregate taxes upon the increased valuation, during the same period amounted to \$27,862,839.

A comparison of the cost and interest thereon of Central Park, with the increase in valuation of the three wards in which it is situated, as before shown, is an interesting study, because of the remarkable increase in the valuations from the year 1856, \$26,429,565, and the gradual increase until 1873, when it reached the enormous sum of \$236,081,515, or nearly ten hundred per cent., while the taxes followed closely upon the increase, and rose during the fourteen years from \$288,685, to \$5,241,298.

The following letter, written by General Horace Binney Sargent, formerly of this city, now residing in Los Angeles, California, shows unequivocally the strong spirit of righteous indignation that animated him in condemning the unjust treatment he received at the hands of the city of Boston, by the officials in power:

Los Angeles, Cal., March 21, 1885.

HON. SAMUEL E. SAWYER:

Dear Sir: — I have not had the heart to reply to your letter touching the swindle, that I think should be called The West Robbery Park.

The mere recital of facts is the argument: Ten years ago, or more, the city of Boston taxed my forty acres, that front nearly half a mile on Seaver street and Walnut avenue, on a sworn valuation of their own assessors. That sworn valuation was over \$200,000, and the Park commissioners asked for a bond at that rate, which I declined to give. I borrowed \$85,000 upon this estate, giving a mortgage.

The city deterred all private purchasers by including these forty acres in the park plan until their assessors had reduced the sworn valuation to about \$60,000, in evident conspiracy with their masters, the city of Boston, which not merely doomed the estate for a park, but voted to give only a price based on the valuation of their own assessors.

At last, when the three conspirators, or rather the one robber, with its two conspiring hands, the assessors and the park commissioners, saw the tide of value returning, in spite of their falsest valuation, the estate was seized for less than half the sworn value of ten years before, and this in the growing city of Boston, and in one of its most growing wards.

Does any one believe that this fine estate on the corner of Seaver street and Walnut avenue is worth 100,000 less than the valuation on which I was forced to pay taxes, ten years or more ago, \$203,000?

I was offered \$400,000 for this estate then, which the three conspirators, the city, the assessors and the park commissioners, now seize for less than \$100,000, a sum that does not liquidate the mortgage debt to the bank in Newburyport.

That Messrs. Dalton, Lee and Gray may enjoy the reputation of being smart, sharp buyers, of saving a shilling to each one of the citizens of Boston, they saddled me, in my enfeebled old age, with a loss of five or six hundred thousand shillings!

By corporate power, my land is doomed at a valuation based on assessment; then assessed at much less than half its value, and then taken by the park commis-

sioners at less than its worth would be if not so doomed and assessed. If this is not robbery, what is robbery?

Yours respectfully,

HORACE BINNEY SARGENT.

I here take the liberty of annexing extracts from another letter of General Sargent's, in which he still more forcibly presents the striking points at issue, which deserve the careful consideration of all conscientious citizens. To wit:

"Can any one believe that in a rapidly growing city like Boston, where parks and other uses had already diminished the mass of land in the market, the forty acres of the beautiful old Sargent homestead were correctly assessed as worth over \$200,000, when the park commissioners desired a bond, and as worth only \$60,000 when the city decided to take it, if it could get it at the tax valuation? No matter what influences swayed the assessors, was the assessment in both cases correct under oath?

The appraisers, purchasers, doomers, it must be remembered, are but one party, the city of Boston, which is properly a trustee for its citizens and is bound to act fairly, when in violations of general principles to prevent fraud, it becomes both buyer and seller of the coveted property of one citizen. No one can doubt that there is a close connection between the fall of assessed valuation from \$203,000 to \$60,000, and the city's vote to base their buying price on that valuation, and the park commissioners' desire to show themselves close buyers. The heads and hands are several, but they are all the city of Boston.

And now, to cap the climax, a betterment tax, on account of this park, to the amount of \$800, is laid by the park commissioners on a single half acre of adjoining orchard remaining in the family. For what? The land taken is unchanged. Change of ownership from private to public title makes no park, and confers no betterment as ground for assessment. Private use and settlement would confer more value than the city's idle ownership. This charge of nearly \$800 levied on owners who suffered by an undervaluation of at least \$100,000, and are now summoned to pay, overshadow Dr. Franklin's story of paying for 'heating the poker.' Except in the solemnity of the reports, the whole transaction is unworthy of the city of Boston."

H. B. S.

I quote the remarks of the Mayor of one of our large cities, who in his inaugural aptly said: "The first duty of government is the protection of its citizens in their rights to life, liberty and property." Would that the government of the city of Boston, in all its branches, especially in the park commissioners' department, had been, were now, and always will be of this way of thinking and acting; instead of sacrificing the property of honest owners, that the citizens may enjoy the benefit of it for luxurious purposes.

On the 4th day of March, 1885, finding that all my efforts in trying to make a settlement with the park commissioners were exhausted, hopeless and unavailing, and after having a prolonged and earnest interview with the full board of commissioners, and with the aid of Hon. Robert M. Morse, Jr., my case was presented with

plans and arguments, showing the picturesque beauty of the lands, their charming location, the advantages, and relative position of the neighboring villages, their proximity to the city, the constant communication and rapid transit by two railroads; and being convinced that all this valid reasoning had proved ineffectual, I finally concluded that further delay in the prosecution of my demands against the city, would be futile; therefore I resolved that there was no alternative but to pursue my action in court. This I knew would be a hard struggle, with all the influences of City Hall employees, office hunters and favor seekers against me. My counsel had already prepared the necessary declaration, and we launched our barque on this proverbial sea of troubles, a court, with all the uncertainties of law, and which even at this time of writing (May, 1887,) are not yet ended. Subsequently on the 17th of May, 1886, Moorfield Story, Esq., was retained in cooperation, or as junior counsel; thus adding to our legal force and acumen. My arduous labors involved in so important a case, became, with every step, still more and more earnest and ponderous.

During these many months of tedious, oppressive labors and painful anxieties, I called upon more than fifty prospective witnesses, while wearied and exhausted in mind and body, an ordeal that I could wish not even an enemy might be obliged to realize.

Franklin Park.

The following are extracts mainly selected from a letter written to the park commissioners, hoping to

effect a settlement for my valuable estates taken from me against my will for park purposes, including Monteglade, Ravenswood Park, Glenroad and Newstead. These are the gems of the park area, Glenroad Ravine being the natural gateway. They are all absolutely indispensable to the perfection of the great Franklin Park.

Boston, April 23, 1886.

Gentlemen: — A brief outline of the history and the motives that have actuated the holder of these valuable properties may not be uninteresting to your Board, giving you possession of important facts, that will aid you in estimating the true value of these estates to the city of Boston, as the chief features of interest in the great Franklin Park.

These valuable lands came into my possession more than thirty years ago, and have been held subject to the loss of interest and the payment of taxes all these years, amid the depressions and changes in business, knowing that their beauty would sometime be appreciated, and that a colony of elegant residences would cover the slopes and the plains of these lovely estates, thereby reimbursing me for patiently waiting.

The outlooks from the elevations and terraces are extremely charming, and the drainage perfect, so that health would be likely to reign in every home. The undulating surface of these lands, embracing wooded hills, grassy slopes and charming fields, together with their natural rural beauty, renders this property most attractive.

Monteglade and Ravenswood Park, together with the

adjacent property, constituted my future expectations of a fortune in them. They are indeed a delightful park in themselves.

To part with these lands is like taking the very "apple of my eye." And even at the figures rendered to the commissioners, or city government, being 18 3-4 cents, 25 cents and 35 cents per square foot, I should heartily rejoice if these valuable estates could be let alone, for I am sadly unwilling to part with them, except in house lots. If, however, the city must have them for the completion of the park proportions, as well as for their picturesque beauty, then let the citizens of Boston pay fairly and equitably for them, and not permit the long-waiting owners to be wronged for their luxurious indulgence. I claim the right to make prices for my own property. The buyer can not, in justice, make prices for the owner, especially by first making undervaluations. An unmerciful exercise of the right of eminent domain becomes a prodigious wrong to a few, for the benefit of the many, and all for luxury.

Glenroad was laid out more than thirty years ago, forty feet wide, and substantially built, with two or three feet of stone for its foundation, and a culvert running through it, covered, and nicely crowned with gravel. It was thus kept constantly in order: \$135 was paid at one time for repairs. The sidewalks are six feet wide on both sides, and handsome elms were set out on its borders. It is 1345 feet long on the premises, and the same width of land, 753 feet long, was bought of George Wm. Bond at that time, (1853) to extend the road from my western boundary to Forest Hill street, in order to gain a direct communication to Jamaica

Plain station, on the Providence Railroad. This station is about six minutes' walk from Monteglade. Ravenswood Park Circular Road was constructed at the same time, the width being 38 feet at the entrance, and 32 feet at the circle; elm trees line the wayside. They were both expensive roads.

The Hon. Geo C. Richardson and Mr. Bond have since built Sigourney and Robeson streets, intersecting with Glenroad, Walnut avenue and Forest Hill streets, which, having brought their lands into the market, adjoining mine, they have already sold several lots at 25, 30 and 35 cents per foot; higher prices are now asked, and on Forest Hill street sales are made at 37 1-2 cents. My land is elevated and of greater value.

There are valuable ledges on this property; the natural faces are admirably adapted for the construction of elegant mansions, while the blocks and broken fragments would be suitable for foundations, culverts, and roadways. These materials will be wanted and when they are taken away and the grounds levelled, the land will still be valuable for houselots.

The steam cars run on the Providence railroad, at short intervals, more than fifty times a day each way (time from Boston thirteen minutes), stopping at Green street station. The Metropolitan horse railroad, on Washington street, runs its cars every fifteen minutes, which is only four minutes' walk from Monteglade (fare five cents), so the accommodations are frequent and ample.

This property was surveyed and cut up into twenty-two house lots, by Alex. Wadsworth, in 1853. There are ten lots on the eastern side of Glenroad and twelve

lots on the western side. The road is private property, it never having been conveyed to town or city. The lots on Walnut avenue, Glenroad and Ravenswood Park are finely located and are worth 50 cents a foot. The frontage of this property on the several streets is very large, being 5814 1-2 feet, and every lot is pleasantly accessible.

The property on the eastern side of Walnut avenue, called Newstead, being Lot No. 17 on the park plan, has also been held more than thirty years, waiting for the growth of population, which now has almost reached it; these being the first lands to come into the market for dwellings. An enterprising city like Boston must have room to spread itself out, and no adjacent lands are more beautiful, being a natural ridge or knoll, overlooking the low lands in the vicinity and the long stretch of valley intervening to the Milton hills, having a fine, sunny, southern aspect.

This estate, containing 476,360 feet, was taxed in 1874 on \$42,900; it was sold in 1872, fourteen years ago, for 18 3-4 cents a foot, \$89,317.50; the price then demanded was 22 1-2 cents. The assessors commenced running the valuation down, till in 1881, it was taxed on \$28,600. Then one of the commissioners asked me if I would take the 25 per cent. additional, or \$35,750, but I declined, believing it to be worth a great deal more. Two years later, May 25th, 1883, the assessors again cut down the valuation to the incredible sum of \$18,600, and then informed me that they had seized it; to which I cried out, "Robbery! Robbery!"

The object of this summary treatment was, I suppose, to make the meagre appropriation of \$600,000 cover the

purchasing or the condemning of all these park lands, then 366.80 acres, worth more than \$2,000,000. These facts have become matters of history, and I shall feel it my duty to place them on record.

By request of an agent of the city government, I reluctantly bonded this property in October, 1879, to run till January 1st, 1880, for \$80,000. After the time had expired, the commissioners again put the screws on to the poor owners of land within the park area, and many of them were obliged to submit rather than to spend money in court to secure their just rights.

During all these years, from the inception of the park project, nothing could be done with my lands by way of further improvements or by selling, because they were already irrevocably doomed; meantime I was held strictly accountable to the city for the payment of my annual tax bills, paying into the city treasury more than \$20,000, while at the same time I was losing the interest on this valuable property, as it was then beyond my control. Such is the fact.

The Ashler stone, lying upon the lawn, was taken from a large, elegant mansion house, built by George Bond, the elder, on Winthrop square. It was considered very handsomely hammered stone. It was bought entire and teamed out there at a great expense, for the erection of one or more elegant structures.

I have felt a deep interest in the park project, and was one of the earliest movers to secure a public park for the citizens, spending time and money to accomplish the object, not, however, suspecting that I might be fleeced by advocating the enterprise.

During the winter of 1873 and 1874, I obtained the

plans (27) of all the lands embraced within the bounds of Seaver street, Blue Hill avenue, Canterbury, Morton, Scarborough and Walnut avenue, containing 366.80 acres; and these divers plans were made into one by William A. Garbett, civil engineer, at my expense; it is dated April 9th, 1874. This was the first plan made, and it was then submitted to some of our well known merchants, with a full description of the property, and it met their warm and earnest approval.

As soon as the park commissioners were appointed, in 1875, the plan and the letter were both sent to them, and became the germ of the park movement; the outlines being adopted by the commissioners, as there suggested and described, and the park project was secured in earnest. This original plan has recently been returned to me at my request, and it now hangs on the walls of the Sawyer Free Library in Gloucester, as a memorial of the West Roxbury Park.

These 366.80 acres were assessed at that time on about \$1,200,000, but were afterwards gradually cut down to \$532,000, in order to accommodate the purse of the city treasurer, certainly a very great reduction in valuation, while the population and wealth of Boston were yearly increasing; the increase in Ward 23 being 26 per cent., against only 6 per cent. in the city proper.

In obtaining a luxurious park for the citizens of Boston, many private individuals have been sacrificed; one whom I well know was reduced from comparative comfort to almost dependence. He was an old, worthy merchant, doing business here nearly forty years. Was it right?

I am sure your scientific landscape gardner, Mr.

Olmstead, will tell you that Monteglade is absolutely indispensable to the beauty and perfection of Franklin Park. Then why not compensate me accordingly? Gems and precious stones are not common; there are enough low and miry bogs anywhere, which you can almost get by asking; these lands are elevated, and beautiful, and the railroad facilities enhance their real value.

As soon as Mr. Bond offered his property, untrammelled by park doom, he readily sold several of the lots on Sigourney street at his own prices.

I now rest in the hope that your board will at once make me a proposition that I can accept, and save the wear of litigation, while I remain

Cordially yours,

SAMUEL E. SAWYER.

Boston, May 31, 1886.

HON. BENJAMIN DEAN,

Chairman Park Commissioners:

My Dear Sir:— On leaving you at our last interview, you facetiously remarked, "You are equal to the strain," which has rung in my ears ever since this final effort to make a settlement of my claims against the city, which availed nothing. But why force me to part with my charming estates so much against my will, and then subject me to this great "strain," a court ordeal?

The magnitude of my several claims aggregated was the real bugbear that prevented the settlement, creating in your mind the terror of criticism; the fear of doing justice to me by paying an equitable price for my valu-

able property. I grant that the amount as a whole looked formidable, and so does the handling of every large thing, but when the thing can be so easily divided, and a value set upon each part, the claims are at once simplified.

Now I am to be dragged through a court of law, with all its perplexities and discomforts, simply to extract justice from the right of doing wrong; hoping that if my life and health are spared, the proceeds of this suit may do others some good.

The exercise of the right of eminent domain may in some cases be an absolute necessity, as the location of a railroad, a site for a state house, city hall, court house, or other public buildings; but in my case, I am sacrificed to indulge the citizens of a great municipality in a luxury. In all cases of legal seizure, the owners of the land should be treated fairly at least, if not liberally, and especially if the property is endeared to them, as mine is to me, for these estates are the real gems of all the park grounds, and their beauty cannot be excelled in the vicinity of Boston.

But when the property is ruthlessly taken and the taker has the power of making his own prices, regardless of the owners' private rights, with a craving, unjust spirit, then the right of eminent domain becomes an egregious wrong.

Then again, why should this arbitrary power to seize subject the owner forcibly to give up his property, at the prices of a bankrupt sale, assuming, in order to get the property for a song, that auction prices are market values? This is another egregious wrong.

Or, why should I be obliged to part with my lands at the speculators' prices, such as he or they could make money on, and I be deprived of them? Am I not as well entitled to the profits, being the real owner, as he, a speculator?

Now, if I am not reasonable in my conclusions, and fail to advance honest opinions, then condemn me and my lands too; but my convictions will remain the same, believing that I stand upon the immutable and eternal laws of justice and right.

Can the city of Boston, which you so ably represent, afford to do less than to be governed by the same great principles, and fully authorize her officials to do unto others as they would expect others to do unto them? How would you or any member of your board like it if you were forced to part with your treasures and then be subject to the uncertainties of law for redress?

Respectfully and cordially yours,

SAMUEL E. SAWYER.

To show the indignation and sense of wrong felt by another member of the same family in regard to their unjust treatment, I have taken the liberty to subjoin a letter written by a son of one of the oldest and most prominent families in Boston.

Boston, June 1, 1886.

SAMUEL E. SAWYER, ESQ., Tremont House,

Dear Sir :—This morning I find at my office your paper containing extracts of your communication of April 23d, 1886, to the park commissioners of this city, and relating to the taking of your estates for park purposes. I read the paper with much interest and with more indignation, and feel that I can sympathize fully with you in this matter, by reason of my own family being fellow sufferers with yourself.

Let me say that if ever the true history of the taking of these private estates for the West Roxbury Park (now Franklin) is ever written, it ought to bring the blush of shame to the cheeks of those persons instrumental in perpetrating on private citizens such a grievous wrong and injustice. "West Robbery Park," my father calls it, and well he may, for he have a deep and abiding conviction that he and his family has been robbed of hundreds of thousands of dollars. He once received and declined an offer of \$400,000 for our old family homestead, now within the park limits. This was in the year 1871 or 1872, I think. He subsequently saw the estate included within the proposed park area, its valuation by the assessors reduced from over \$200,000 to less than \$70,000; its subjection for long years to a slow and wearisome, dooming process, and the estate finally wrung at a price vastly below its real value, from a Bank President mortgagee, by the late Board of Park Commissioners. He saw himself thus deprived of a greatly needed surplus; and to cap the climax a betterment tax of nearly \$800 laid upon a sin-

gle half acre of adjoining orchard remaining in the family. Can the irony of injustice go further?

It was the pride of the English law that under it the rights of the individual subject were so sacred that not even the sovereign could invade them with impunity. It has been the pride of our form of government that this heritage from the law of the mother country is developed, and rendered more secure in our freer institutions. The freedom of the individual citizen, the sacredness of his person and property, lie at the foundation of a constitutional government by the people.

We have been taught these fundamental truths from our childhood. The unfortunate and victimized owners of West Roxbury Park lands surely had the right to suppose that their public officials would not disregard them. The result has shown the incorrectness of that supposition.

In my judgment, a most pernicious precedent has been established; one fraught with evil for the future, and which may yet return to plague and torment its authors.

Wishing you the fullest measure of success in your endeavor to partially rectify the injustice and injury inflicted upon yourself and your property, I am

Very truly yours,

HORACE B. SARGENT, JR.

The following adaptation on Bruce's Address to his Army, was written on the spur of the moment, while filled with the impulse of righteous indignation, and is given here, not for its merits as a literary production, but as a part of the history of the case:

The West Roxbury Park.

Now "Franklin Park,—a misnomer. Dr. Franklin would have
"scorned the compliment."

(*Parody on Bruce's Address to his Army.*)

Sons who lived on freedom's soil,
Sons whose lives were spent in toil,
Ye who let your lands despoil,
 Awake! defend your rights.
Ye whose hopes were in your lands,
Ye whose pluck all power withstands,
Come and join resisting bands;
 In justice God delights.

Come one, come all, who felt the power
That seized our lands! Oh cruel hour
That wrenched by force the widow's dower
 And dealt a heavy blow.
These public rights to our domain
Cannot excuse unrighteous gain,
Nor clutch our lands so fraught with pain;
 One moiety they bestow.

Our lands they seized—shame on the crew
That dashed our hopes without ado,
And smote the owners with their cue;
 We'll fight them tooth and nail.
By all oppression's woes and pains,
By pleading owners' galling chains,
We will just drain our dearest veins,
 These wrongs we will assail.

Our hearts rebel — our blood runs high,
Courage my boys, let us defy
Their craving spirit: Live or die
 We will our rights defend.
Now lay the rich usurpers low,
They're smarting now by every blow;
Just show our grit where e'er we go,
 Till vict'ry crowns the end.

West Roxbury (now Franklin) Park.

The following letter was addressed to an old friend, regretting the necessity of calling him upon the stand, but showing him the importance, in every community where differences sometimes exist, of calling witnesses who do know the merits of cases in dispute.

Boston, June 7, 1886.

My Dear Sir: — There are critical times, — anxious moments in our lives, — when we feel it absolutely necessary to lean upon our good friends for support and protection against wrong and imposition, and I am unfortunately in a position just now to be subjected to a gross and unscrupulous wrong.

The exercise of the arbitrary power called the right of eminent domain has deprived me of my valuable estates, sorely against my will, and I am forced to appeal to the courts — to the uncertainties of a suit at law, for redress, and at present it seems to me the chances of obtaining justice bear only a feeble outlook.

You well know about the recent unjust verdict rendered in the "Peters case," and how necessary it is for

me to guard myself at every point by good, intelligent, competent witnesses, in order to protect my sacred rights. This unrighteous verdict, just rendered in our Superior Court, has properly awakened our best citizens to the importance of solving the cause of this mysterious decision, that the sacredness and dignity of our tribunals of justice shall not be allowed to sink into obloquy and ridicule, for "law and evidence" no longer rule the jury, but some evil genius is permitted to block the wheels of justice. I shall therefore protest emphatically against having my claims against the City of Boston presented and tried by this same jury, preferring to submit to one clean out-and-out robbery!

I ask no testimony from you, nor anybody else, that cannot be conscientiously and cheerfully offered as a witness, nor would I call upon you to do this unpleasant service if I could possibly do without your valued evidence, knowing as you do the absolute sales, and the value of my lands, as well as that of the surrounding property. The question arises, Why, if such an act of barefaced injustice can by any possibility be repeated in our courts, prompt and decided action should not be taken to change our system of jury trials to something better?

Are our average jurymen capable of determining the true values of large estates? or any other claims involving more than the sums of five or ten thousand dollars? Why not have large claims, in justice to both parties in interest, always settled by three competent, intelligent referees, or even one good judge?

In the case of *Peters vs. city of Boston*, the weight of evidence was given in favor of 16 to 23 cents per foot,

which evidence was entirely ignored and disregarded in making up the verdict, which being so clearly against the testimony given, should have been set aside at once and a new trial granted.

If it was the result of ignorance or obstinacy, our good citizen should not be so wronged by submitting to it, which view of the case I find pointedly confirmed in the *Saturday Evening Gazette*, as the following extracts will show:

Injustice.

To the Editors of the Gazette:—The verdict of the jury in the suit of Francis A. Peters against the city of Boston, for damages caused to his estate on Forest Hill street by the taking of a portion of his land by the park commissioners, was a great surprise to all who listened to the evidence, the City Solicitor himself included.

Seldom has such an array of land-owners, improvers, and occupants of estates in the immediate vicinity, beside the most competent and experienced experts, testified in any case; and though the petitioner's claim was most thoroughly presented and ably argued to the jury by Messrs. Richard Olney and Sigourney Butler, the result of the trial and the small verdict rendered can only be accounted for on the ground that the average juryman considers land adapted to the raising of potatoes, strawberries and garden sauce, as of higher value than land whose natural beauty consists of hill, dale, rocks and trees, many of which are the handsome result of a century's growth.

Fortunately for the great public, who are to enjoy

Franklin Park, the commissioners did appreciate the great natural beauty of the land for park purposes, and so, notwithstanding the owner's earnest protest, and to his great regret, seized the land under the right of eminent domain, and Mr. Peters is, as is too often the case in lands thus taken, a sufferer, and all

PRO BONO PUBLICO.

"The auction sale on Friday at the Williams estate, of lots of land on Humboldt avenue and Crawford street, at prices from 18 to 32 1-2 cents per foot, must lead our former park commissioners to think that they undervalued desirable land which they seized for the Franklin Park, and must naturally affect the values of the numerous cases now pending in our courts."

Glenroad ravine, the most important gateway to the great Franklin Park, is noted for its picturesque beauty. It was constructed substantially, at great cost, thirty odd years ago, but always remained a private way, never having been conveyed to town or city. The neighbors and others have long enjoyed its benefits with the slight exception of three days and nights' blockading to protect my interests according to the requirements of law. Its construction served to open and make available contiguous land, without cost to the owner, by which several sales have been made at fair prices, say 25 and 35 cents a foot.

When the citizens of Boston drive over the Park roads or ramble through the pathways, lounging in the shade of the lovely forest, they may have occasion to feel a sting of conscience that these charming estates were wrung from the owners at bankrupt prices, by the

cooperative branches of the city government, leaving some of the owners in a state of dependence.

Cordially your friend,

SAMUEL E. SAWYER.

Pertinent to the foregoing, I here copy a newspaper article directly to the point, dated August 2, 1886, headed "Jury Reform:"

"Chicago has just found that getting a jury from the promiscuous drawing from a voting list is a farce, and all her trade and manufacturers' associations have united in an appeal for reform. Massachusetts has found that her system of letting selectmen and aldermen set up a list to be drawn from, is a mistake, in that in most cases men are called to pass judgment upon things they have never had the least conception of. If a commission could be secured which would call jurymen for specific cases, who might be supposed to be somewhat acquainted with the general character of the issue, greater satisfaction would follow jury decisions.

A case in point was that of a suit in our State Court last month, when the plaintiff sued for the value of an estate held at \$500,000, which the defendant adjudged worth much less.

None of the jury who arbitrated had ever been in the business on their own account; only two owned houses, and not one of them had ever had an income of over \$2,500 a year.

Putting such vast sums into the hands of men inexperienced in affairs of finance and estate was evidently

a mistake, for the verdict was substantially a compromise, a splitting of the difference.

The manufacturer sued for the use of mechanism that he believes does not infringe another's rights, gets poor encouragement when he faces a jury of hod carriers, dry goods clerks, teamsters, idlers and numbsculls. He ought to have twelve men versed in mechanics to settle the dispute, or as near such a list of qualified auditors as the country would afford. So, too, the banks, the brokers and merchants ought to have a jury who would be considered in the open market at least fairly competent to weigh the evidence.

It were time we cut loose from the ways of the Pilgrims in this conduct of our business, and adopt a system conforming to the progress and advance of the people. Intelligent jurymen will save a waste of words and eloquence, expedite business and facilitate justice."

I must apologize for the apparent but unavoidable repetitions that occur in this narrative, on account of so many letters, delineating this case of litigation, where the attainment of luxury, and not utility, was the chief object to be gained. But I must still crave pardon of the reader while I summarize some of my experiences.

Nearly six months of constant labors and perplexing thoughts brought us down to the 17th day of May, when I had the last hopeless interview with the chairman of the park commissioners. Many suggestions were offered, and among them I requested that three competent referees be appointed, but on the 12th of June the city solicitor reported to my counsel that the commissioners would not consent to a reference, preferring, it is

presumed, to keep the case within their own control. It is alleged that one of the commissioners offered a bet that my property would not bring over eight cents a foot in court,—a shady inference that might be subject to a bad construction,—no doubt “the wish was father to that thought.”

On the 20th day of May, one of my old and most excellent friends, Hon. George C. Richardson, passed away, mourned and regretted by a long list of our best citizens. He was to have been one of the chief witnesses in my suit, as he owned lands near by, or next to mine, consequently he would have given valuable testimony. On the morning of his death, I called at his office and was shocked to learn that he was dead.

After repeated delays and reappointments, made by the opposing counsel, we at last succeeded in bringing our suit into the First Session of the Superior Court, Chief Justice Lincoln F. Brigham being the presiding judge to hear our cause, a most admirable and conscientious judge, worthy his high and responsible station.

On Thursday morning, the 17th day of June, our case came up and after empanneling the jury they were at once taken out to Monteglade and Newstead, now within the West Roxbury Park lines, accompanied by the city solicitor and my counsel, to view the premises.

Next morning the trial was resumed in court and seventeen witnesses were sworn and examined for the plaintiff. At four o'clock the court adjourned till Monday morning, the 21st, when six more witnesses on the plaintiff's side testified to the value of the land; their united evidence averaging over 18 cents a foot for all of both estates. This ended our testimony.

Then the city solicitor, the opposing counsel, opened his case for the city and offered seven witnesses, whose rebutting testimony averaged only 5 cents a foot, thus reducing the average on both sides; a most extraordinary difference in the evidence given. Surely there was no "boodle" in my case. I am not disposed to reflect disparagingly upon the testimony offered by the opposing counsel, but would simply recall to the memory of those who were present at the trial the remarkable evidence offered by two or three, at least, of these witnesses, called by the city. One of them affirmed that my property was worth only $2\frac{1}{2}$ to $3\frac{1}{2}$ cents a foot, another that $3\frac{1}{2}$ to $4\frac{1}{2}$ cents a foot was all it was worth, etc., while the evidence presented by the mouths of many other witnesses showed that the land just over the division line, lower, and of much less value, had been sold in several instances at from 25 to 35 cents a foot. These were not experts, nor were they city officials, but were so interwoven in the meshes of the great machine, whose workings, or *modus operandi*, are so mysterious that they are past finding out. It is sufficient to say that the aggregate of all the prices testified to on both sides, notwithstanding the damaging evidence, as above offered by the city, was 449, which divided by the whole 30 witnesses, averaged 15 cents a foot, or \$300,000, without reckoning the interest, or say \$350,000 with interest. The first sum is \$67,761.15 more than the verdict rendered, which was \$232,238.85.

On Tuesday, the 22d, the last witness having been called in the case, the first argument was made by Hon. Robert M. Morse, Jr., my senior counsel, closing at 11.30 A. M., when the city solicitor, A. J. Bailey, Esq.,

commenced his argument, which we all admitted was forcible enough to save any city from imposition.

At 12.30, Chief Justice Brigham made an able and impartial charge to the jury, which certainly ought to have enlightened their minds, at least, and directed aright their convictions; but the pith of the evidence was far from them, or in other words, the average testimony, which should have been their chart and compass, was ignored and entirely disregarded.

Monteglade-Ravenswood claim,	\$413,486.00	
Verdict, 43 1-2 per cent.,	179,838.75	
Difference,	—————	\$233,647.25
Newstead claim,	\$89,317.50	
Verdict, 58 5-8 per cent.,	52,399.60	
Difference,	—————	\$36,917.90
Total difference (loss),		\$270,565.15
Monteglade verdict, 12 1-2 cts.,	\$179,838.75	
(Instead of 25 and 35 cts.)		
Newstead verdict, 11 cts.,	52,399.60	
(Instead of 18 3-4 cts.)		
Total amount,	—————	\$232,238.35
The amount of three claims was		\$502,803.50

Some of Judge Brigham's rulings were excepted to by the City Solicitor, one of them being the rate of interest to be added to the finding of values, from the dates of the two takings, to which the judge replied, "I shall rule that the interest must be made up to to-day (June 22) at the legal rate of 6 per cent. per annum. There were some other invalid exceptions taken, which I will not here repeat. The jury then retired, but on the ad-

jourment of the court they had not returned. On Wednesday morning, the 23d, the jury brought in their verdict, which was announced by the foreman, as \$232-238.85, with interest added, making the whole sum \$265,-091.97, which disappointed my expectations, based upon intelligent evidence.

Still the city persistently blocked the settlement by petitioning for a stay in arrest of judgment and filed a bill of exceptions, meaning thereby, if possible, to grind out of me another slice of my just claims. Such a course was reprehensible and unworthy the name and fame of old Boston.

Thus harrowed we got a hearing before Judge Brigham on the 30th of October on the exceptions filed by Solicitor Bailey, which were mere technicalities, but my counsel, Messrs. Morse and Story, finally agreed under the judge's order, to send them up, in part, to the Supreme Court, and here the case rests.

Sometime after the trial was over, the verdict rendered, and the exceptions filed to block the ends of "justice and merey," I wrote the following pointed letter to the Park Commissioners:

The Right of Eminent Domain and the Wrong of Jury Trials.

North American Ins. Co. Office, }
Boston, July 26, 1886. }

Messrs. BENJAMIN DEAN,
PATRICK MAGUIRE,
JOHN F. ANDREW,
Park Commissioners.

Gentlemen: — If all the claimants against the city of

Boston have to undergo the same unmerciful treatment that I have experienced, by being the possessor of lands wanted by the city for park purposes, they are to be pitied as fellow victims.

The story of my annoyances, the oppressions endured, I will try briefly and graphically to narrate, showing something of the thorny road I have been obliged to travel in seeking partial justice from the city government. In the first place, my charming estates, of very great value to me, presently and prospectively, are summarily seized without my consent, under the guise of eminent domain, a gross wrong in its inception, and in its unjust finality, sacrificing me, my expectations and my fortune, for the public indulgence, and personal gratification.

The act of seizing my property for this purpose was an unscrupulous one, not rising even to the pretension of a public necessity. Nor do I believe that the framers of this odious, unjust and arbitrary law, giving the right to take private property for public, and especially for luxurious uses, ever contemplated that lands so taken unwillingly from the owner, should subject him to the grinding process now imposed by the city of Boston.

You must bear in mind that these lovely estates were not wrenched from me as a public necessity, for the site of a public building, or the location of a railroad for the greater convenience of the citizens and the public, but absolutely torn from me for luxury, and then stinting to the last strain the compensation.

Finding that there was no alternative but to part with my estates, the very thought of which became such a sore trial, I endeavored by every means in my power

to effect a settlement with the commissioners, and to save being dragged into the courts for redress. With this hope I delayed entering my case upon the docket, unwisely believing that justice would ultimately be done by the city government. Doomed by disappointment, I was at last forced to commence a suit against the city, presenting my several claims at one time.

After many months of labor, tedious and perplexing, I at length brought together more than thirty highly respectable and thoroughly competent experts and other witnesses, who had either lived in that neighborhood or had owned, bought or sold lands there, and knew well their value.

The testimony of twenty-three of these excellent witnesses gave valuations of the several estates, averaging for Newstead, 17 1-4 cents a foot, and for Monteglade and Ravenswood Park 18 1-2 cents, together averaging about 18 cents a foot or \$360,000, without the interest. More reliable witnesses I am sure were never offered in court.

After closing our evidence, the city solicitor opened and continued the case by the introduction of seven or eight witnesses, most of whom knew nothing of the value of lands in that vicinity, never having lived, bought or sold real estate there, confessing on the stand their ignorance of values; yet three of them testified that my estates were only worth 3 1-2 to 4 1-2 cents, and one of them dropped as low as 2 1-2 cents a foot; shameful statements which should have been dishonored on the spot. The testimony of worthy men informed them that less desirable property had been sold just on the other side of the stone wall, dividing my property

from George Wm. Bond's, at 25 to 35 cents. Such witnesses as those who gave the low figures must have been under strange influences, and if the land had belonged to them instead of me, 25 or 30 cents a foot would have been too cheap for it, the difference being in valuing other people's property.

Thus my cause was severely handicapped, while I was powerless in my efforts to obtain simple justice tempered with mercy. Still the average of all the testimony presented was 15 cents a foot, 3 cents more than the values given in the verdict, or \$60,000.

In combating the law department of the city government, I had to contend against the board of park commissioners also, with whom I had so often tried to settle my claims, out of court, certainly an uneven and unfair struggle for my private rights. I have now had convincing evidence that in going to the courts, with such powerful odds against me, became a farce, presenting my equitable claims under the greatest disadvantages.

You know how earnestly I tried to have my claims presented to and adjusted by the honest judgment of three intelligent and competent referees, capable of measuring the true value of estates of such magnitude, or to submit my claims to the good judgment of even one of our justices, an offer that was fair and safe for either party, but my reasonable proposition would not do; the motive of such unwillingness I can not comprehend; to me it was a mysterious problem.

I am neither a bankrupt nor an anxious seller of real estate, but simply an innocent owner of valuable lands, that I do not wish to part with at present, consequently

I hereby offer to you \$50,000, or even more, to release to me and give up these charming estates to my own use and benefit, for they will surely bring twice the amount of the verdict, as soon as the tide of population which is near at hand, reaches them. The location of these lands, being so near the steam and horse car facilities, renders them most desirable for elegant homes, but my hopes are sacrificed before I can get the benefit of the advancing demand.

Ignorant of the principles governing a court of law, and the administration of justice by jury trials, I had the temerity to believe that the guards placed around our tribunals were ample for the security of every private citizen in his equitable rights, but when a jury is empanelled, knowing but little or nothing of the value of real estate in a neighborhood, and perhaps incompetent to estimate the true value of large estates, and who go upon the premises for one single view, it would seem to be impossible for them to render a reliable judgment of the real value of the properties they are chosen to adjudicate; and yet we are subject to the uncertainties of such jury trials. Our remedy is by adopting the practice of appointing referees.

Moreover, as an illustration in my case, the jury did not render their verdict according to the old rule of "law and evidence," but entirely ignoring the testimony of excellent witnesses, they rendered their verdict on the basis of 11 cents a foot for Newstead, against 17 1-4 cents, and for Monteglade 12 1-2 cents against 18 3-4 cents. The average of all the testimony on both sides was about 15 cents, or 3 cents more than the verdict, taking \$60,000 out of me.

If the jurymen are governed by the rule of equity, their decisions are easily made, because the average of all the evidence offered settles for them the amount of the verdict, in most cases; but the chances of obtaining justice, when law and evidence is not the rule, becomes doubtful.

By the strict definition or interpretation of the law governing jury trials, I read the law thus: "A jury is required to try any matter of fact and declare the truth on the evidence given them in the case, according to the average testimony offered." This being the rule and the law, it becomes a plain and simple duty so to act, and nothing more can be required of them.

It does, however, seem to me that different causes requiring the experiences of different business transactions ought to be considered in empanelling a jury, to secure practical judgment.

After the labors, anxieties and annoyances running through several months in the preparation of my case for trial, the tedious court experiences and large expenses, a very unsatisfactory verdict is finally arrived at, it being \$150,000 less than I had a right to expect, which in a word was at least \$400,000; still the disagreeable recollection of the suit comes up, and weariness not willingness leads me to accept the unrighteous verdict, rather than suffer another such ordeal; not doubting that the city government would rejoice over their victory, and render to me speedy judgment, but instead of that they petition for a stay in arrest of judgment and file a bill of exceptions, simply to delay and block the wheels of justice, and thus to annoy and perplex, intending to wear out my patience; but they will

be mistaken, for I shall never consent to the reduction of one dollar from the face of the verdict, nor abate one cent from the interest.

Now, if your commission, representing the city government, did not intend to abide by the verdict rendered in my case, why did they have the hardihood to force me to all the discomforts of the suit in court? They have acquired no such privilege over me. Surely I have done nothing in the progress of the trial to gain undue advantage, which I might have been justified in doing if I had been keenly alive to such methods, but all my witnesses were of the highest respectability, capable, conscientious and judicious, besides being taxpayers. Is it therefore honorable, on the part of either department of the city government, first to force me under the harrows and then to do their utmost to keep me there?

Your plea for trying to set aside the verdict and petition for a new trial seems to be based upon the fact that Newstead was entered with other claims against the city, it having been seized the year before, and no action filed. What could be more natural when other and larger claims were pending? No claim of mine is stronger or more legitimate.

Do the park commissioners owe me for Newstead or not? Does the city government, or any of its officials, desire to rob me of this property, or take advantage of a weak and dishonest technicality of law and thus deprive me of 476,360 feet of land at 18 3-4 cents, or \$89,317.50 when they also owe me for other large claims?

The jury has now rendered their valuation for this

property in their verdict at 11 cents a foot, which is an extremely low one, you may rest assured that I shall never take any less.

If the citizens of Boston crave my charming estates for their æsthetic indulgence, without paying for them, you will pardon me if I should respectfully decline, preferring greatly to be my own almoner, and to bestow my charities where they are deserved, and where they would be better appreciated.

You can not expect me to part with this property at one-fifth of the real value, when contiguous lands or others similarly situated could not be bought to replace mine at five times the value placed upon them by some of your witnesses, even if such could be found, nor have I the power to seize desirable lands under that odious right of eminent domain, a pretext for doing very great injustice to the owners of real property.

The long strip of land with a short frontage on Blue Hill avenue, which you settled for at 9 or 10 cents a foot, will not compare in value to the charming ridge of land called Newstead, nor is it worth one-half as much for building purposes.

Many other lots that were seized and paid for at forced bankrupt prices, are low boggy sloughs, only fit for the raising of cabbages and other farm produce; besides being a long distance from railroad facilities, while my estates are all conveniently situated and admirably adapted for the building of elegant mansions.

Auction sales or bankrupt prices are no criterion for the values of my estates, knowing as I do that, if the city would let my private property alone, I feel sure of realizing the full amounts of my several claims, as ren-

dered against the city being more than \$500,000, for nothing can be more certain than that these picturesque and lovely estates will soon be wanted for the country homes of our citizens.

If I had made an effort to improve these lands and offered the lots for sale, many of them on Glenroad, Ravenswood Park and Walnut avenue would have been sold long ago at 50 cents a foot, for there are no lands so attractive for fine dwellings within four miles of the city, nor so available. You well know how to appreciate the beauties of Monteglade and Ravenswood, for nothing can be more charming; and besides, the peculiar location, relative to the other park lands renders this property, especially, indispensable to the form and perfection, and in fact it is to be the grand entrance to the great Franklin Park.

Did it ever occur to the commissioners, past and present, that that grand old man, Dr. Franklin, would not, if here, have considered it any compliment to have his name adopted for the park?

Shall I enumerate the names of those owners who have suffered by the exercise of this unrighteous power? No; but I will speak of the treatment dealt out to one of Boston's old and worthy merchants, who for over forty years did a large business, and paid his taxes in this city. He was interested in a valuable and prominent lot of land, condemned by the park commissioners and, after many earnest and repeated efforts to make a fair settlement, he, also, was dragged into court and finally obtained a verdict of more than double the amount offered by them, even after the very damaging testimony presented by the city against him; and sup-

posing that his arduous labors would thus be ended, he accepted the result of the trial in great disappointment, and expected immediate payment. But the same cruel action was continued, until the old gentleman's spirits were broken, and his patience as well as his pockets were exhausted. He was finally forced by threats of another trial, (which his health would not permit) to deduct many thousands of dollars from the verdict, (which was seventy-five thousand dollars too small,) before he could collect his money from the city. He had always looked upon this real property as his only, or chief safeguard against poverty in his old age. But the over-bearing, grinding process of the city government has thrown him upon the charity of his friends.

The above statement represents only one of the examples of the unmerciful treatment exercised over the owners of lands doomed, within the park area, which ought to be condemned by every good citizen who loves the name of Boston.

To save complications, and the time and labor of calling together another class of expert witnesses, I made no claim extra in my suits for the valuable ledges on the premises, which your superintendent of streets knows how much to value; he having negotiated not long ago for such property at prices aggregating many thousands of dollars.

In considering the cost and value of my several estates, we should not lose sight of one very important fact, not presented in court, to wit: That the accumulated interest and the taxes on my properties, (these two items of outlay) amount to more than \$200,000 since 1876, ten years ago, when all this property was virtually

doomed by the commissioners. And after the fiat had gone forth that all these lands would be seized by them, nothing could be done to improve these lands advantageously by preparing them for sale; as no sane man would be fool enough to buy and erect a home on land sure to be condemned by the city. Yet I paid my taxes annually during all these years.

I ask no favor of the park commissioners, the city government, nor the board of assessors, except one, and that is simply to let my lands alone.

Respectfully and cordially yours,

SAMUEL E. SAWYER.

P. S. Aug. 2, 1886. The property of the late Geo. C. Richardson on Forest Hill, Robeson and Sigourney streets, 14 lots, has been sold at auction (out of season) at prices averaging 18 cents a foot, and the Williams estate was also sold at auction by L. Foster Morse at prices ranging from 18 to 40 cents.

The remaining land on Sigourney street, which belonged to Geo. Wm. and W. S. Bond was sold to the city at 28 cents a foot. This is the next lot to mine divided only by a stone wall, but lower land. This shows that real estate is in fair demand.

Copy of a letter written to the park commissioners, which speaks for itself, and shows how I regard the value of the property taken from me.

Tremont House, }
Boston, Dec. 29, 1886. }

MESSRS. BENJAMIN DEAN,

PATRICK MAGUIRE,

JOHN F. ANDREW,

Park Commissioners.

Gentlemen:—Now that you (representing the city of Boston) have obtained legal possession and control of my estates, which I regard as of great picturesque beauty and value, the loss of which having become such a trial to me, I thought it best to make, through your commission, to the city of Boston, a bona fide offer for these estates. To wit: For Newstead, 12 1-2 cents a foot; Monteglade, 16 1-2 cents, or nearly \$65,000 more than the verdict, in order to regain legal possession and control of them.

This downright offer will convince you how much I regret to have my property wrenched from me against my will for luxurious purposes, and how severely I condemn the exercise of that arbitrary power, the right of eminent domain, that authorized the seizure when the property had been undervalued.

Resistance being useless, I therefore try this method to recover the legal title to my estates; and as the city treasury is now laboring under a heavy weight of debt, in the face of a restricted right of borrowing, limited to only 2 per cent. on the tax valuation, and as the city can not afford the luxury of expensive parks for its citizens, I presume you will be glad to accept at once this generous proposition, and thus reduce your obligations.

Respectfully yours,

SAMUEL E. SAWYER.

As it will be of interest to know how the court regards certain points in evidence, I will here copy, verbatim, Judge Brigham's charge to the jury, on testimony of values, as follows: "The prices which the city of Boston may have paid for any land in the park does not furnish appropriate or pertinent evidence of the value of the land of the petitioner taken. The law does not regard sales made to avoid the very proceeding which has been going on before you, as current market sales. A sale by the owner of land, for which there can be one purchaser only, when he has no option to refuse to sell, and can only elect between an acceptance of the price offered and the uncertainty, delay and trouble of legal proceedings, is not a reasonable or fair test of market value. It is in no sense a sale in the market." To which instruction the city solicitor excepted.

On the 17th of March the two important points were argued before the Supreme Court. On the bench were Judges Morton, Allen, Devens, and Holmes. Mr. Storey's argument was on the stay and arrest of judgment. By the city solicitor, on the plea that Newstead was barred by limitation, consequently out of the jurisdiction of the court. Mr. Morse's argument was on the exceptions. When they had finished, Mr. Bailey made his plea on both and all points, in which, by his usual effective and methodical way, he drove his arguments lustily into the ears of the court, which was apparently unmoved by his eloquence.

And here the case rested for some months, awaiting the uncertainties of the law and for the decision of the court and final rescript. Meantime no mercy can be

expected from the city of Boston, as I have endeavored to show by the foregoing pages of this narrative; but on the other hand, the city government has done all that it possibly could, to block the way of settlement. After seizing my estates, I have been dragged into court; unaccountable and unjust testimony was given against intelligent and judicious experts, and finally the verdict was rendered; the result being about 46 1-4 per cent. of my claims, or about \$250,000 less than I would have accepted for this property, at private sale.

After the testimony had been admitted on both sides, as to the value per foot of the Newstead land, without any objections being raised at the outset, and as the jury was about to retire, the question was raised by the city solicitor about the rate of interest, on the declaration of the verdict. He then for the first time raised the point of jurisdiction, and requested that the Newstead estate be thrown out of the verdict; but as the record did not show any reason for such a proceeding, the Supreme Court sustained the verdict as will be seen by the rescript, sent down May 9th, 1887. To wit:

SAMUEL E. SAWYER vs. CITY OF BOSTON.

Petition for the assessment by a jury of the damages to the petitioner, by the taking of land by the board of park commissioners. The case was tried in the Superior Court, and the jury returned a verdict for the petitioner in the sum of \$265,091.97 and the respondent alleged exceptions to the rulings of the court. The exceptions have now been overruled, the rescript being as follows: The court is not shown to have misused its discretion in admitting or rejecting evidence. The

record does not disclose that the petition was not filed "within the statutory time." Robert M. Morse, Jr. and Moorfield Storey for the petitioner and A. J. Bailey and R. W. Nason for respondent.

Thus ends this important case in litigation,—one of the most important in regard to the magnitude of the several claims, that has recently been tried in our courts, the amount involved being over five hundred thousand dollars.

The legal expenses were fully commensurate, being nearly twenty thousand dollars, besides the extraordinary labors of the plaintiff.

*"Let there be gall enough in thy ink, though
thou write with a goose-pen, no matter."*

—Shakspeare, Twelfth Night.

FINIS.



[illegible]

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